DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

22 November 1995

Wednesday, 22 November 1995

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MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

PETITIONS

The Clerk: The following petitions have been lodged for presentation:

By **Ms Follett,** from 106 residents, requesting that the Assembly act to restore the level of funding to the Year 12 adult evening college program and support adult education.

By **Mr Berry,** from 2,380 residents, requesting that, in relation to the Kippax Health Centre, the Assembly ensure that it is not sold and that the medical, dental and pathology and all other government provided ancillary services are retained.

The terms of these petitions will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Adult Education

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain members of the Australian Capital Territory draws to the attention of the Assembly: the withdrawal of financial support by the ACT Government for the Yr 12 Adult Evening College Program.
>
> Your petitioners therefore request the Assembly to act to restore the level of funding for the above course and support adult education within the ACT.

Kippax Health Centre

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the ACT draws the attention of the Assembly to the proposal by the ACT Government to sell the Kippax Health Centre.
>
> Your petitioners therefore request the Assembly to:
>
> 1. Ensure that the Kippax Health Centre is not sold.
>
> 2. Retain at the Kippax Health Centre the medical, dental and pathology services.
>
> 3. Retain all the present Government-provided ancillary services, such as child-health, continence-advisory, speech-pathology, physiotherapy and after-care services, audio services, hearing impaired.

Petitions received.

PAPER

MS FOLLETT (Leader of the Opposition): Mr Speaker, I seek leave to present a petition that does not conform to standing orders.

Leave granted.

MS FOLLETT: Mr Speaker, I present a petition from 988 residents urging the members of the ACT Legislative Assembly to support the Medical Treatment (Amendment) Bill 1995 to allow people in the terminal stages of a terminal illness the right to choose active voluntary euthanasia.

MEDICAL TREATMENT (AMENDMENT) BILL 1995

Debate resumed from 20 September 1995, on motion by **Mr Moore**:

> That this Bill be agreed to in principle.

MR OSBORNE (10.32): Mr Speaker, I really have no idea what we are doing here today. What is wrong with this world that we live in? The people who made it harder to be born want to make it easier to die. This is the great euthanasia debate. I think it is very important that I make clear from the outset what I understand the various forms of euthanasia to mean. Euthanasia itself is the intentional taking of life for compassionate motives, whether by an act or by an omission. Euthanasia is voluntary when it is at the request of another person in respect of himself or herself; non-voluntary when there has been no request by the person, because he or she either was immature or mentally incompetent, or was competent and was not asked; and involuntary when it is in defiance of a request that it not be done.

I also think it very important, Mr Speaker, when considering the possibility of bringing change to society, such as would be done by allowing euthanasia, that we examine both the findings of other jurisdictions who have considered such a step and the consequences of taking such actions. First, Mr Speaker, I will bore you a bit and turn to the considerations of the Canadian Law Reform Commission. I have to say that I think we need to look at other jurisdictions as we are consistently asked to do when we look at issues they raise and laws they have, an example being a Bill of Rights. The commission states clearly that the legalisation of euthanasia is undesirable. It states:

> From both the legal and social policy points of view, we believe that legislation legalising voluntary active euthanasia would be quite unacceptable.

The commission was concerned about the possibility of incorrect diagnosis, the subsequent development of new treatments or the refinement of existing ones and principally the possibility of abuses. It states:

> There is a real danger that the procedure developed to allow the death of those who are a burden to themselves may be gradually diverted from its original purpose and eventually be used as well to eliminate those who are a burden to others or to society ... there is also the constant danger that the subject's consent to euthanasia may not really be a perfectly free and voluntary act.

I think, Mr Speaker, you would have to agree that this latter point is most important, as much of the talk about euthanasia focuses on the voluntary nature of the desire to die. However, the legalisation of euthanasia sets up a range of pressures that bear upon the patient, no matter how long and hard Mr Moore and his friends try to deny it. The patient is immediately susceptible to the view that they are a drain on the resources of society, that these resources would be better directed to someone who can recover and that they should do the honourable thing by society and opt to end their life by euthanasia.

People may also have less than honourable intentions in promoting euthanasia to their aged and infirm relatives. I am afraid, Mr Speaker, that this, no matter how much we deny it, is an unfortunate trait of human nature. So even initially, given these few points, you would have to agree that there are reasonable grounds for concern that even professed voluntary euthanasia decisions may not be genuinely voluntary at all. This view was an important component of the report by the United Kingdom's Select Committee on Medical Ethics. It states:

> It would be virtually impossible to ensure that all acts of euthanasia were truly voluntary and that any liberalisation of the law in the United Kingdom could not be abused. We were also concerned that vulnerable people - the elderly, lonely, sick or distressed - would feel pressure, whether real or imagined, to request early death.

Mr Moore himself was concerned by these issues, and I would suggest this is why he put his Bill up in exposure draft form initially - to try to help us develop safeguards. With respect, Mr Moore, such safeguards are impossible to implement. Unfortunately, Mr Speaker, as has been well documented, our current law does not stop doctors doing euthanasia. How on earth can we expect that laws to regulate it will not also be flagrantly violated, as they have been in the Netherlands?

The United Kingdom Select Committee on Medical Ethics bases its unanimous rejection of euthanasia on evidence drawn from that experience in the Netherlands. Euthanasia is not technically legal in the Netherlands but has been allowed there for in excess of 20 years. Five criteria were laid down by the Dutch courts to be followed by physicians who were administering euthanasia. These criteria include that euthanasia be by entirely free and voluntary request only; that this request be persistent; that the patient be suffering intolerably, with no chance of improvement - it sounds pretty familiar, does it not, Mr Speaker?; that euthanasia be a last resort; and that it be conducted by a physician in consultation with an independent colleague. It is claimed by those opposite that these criteria are sufficient to ensure the appropriate use of euthanasia and that the criteria are indeed adhered to by those responsible for carrying out euthanasia. Euthanasia, it is said, would only be voluntary and "would not lead to other forms of medical killing which would violate the patient's autonomy or right to choose". Mr Speaker, I would suggest that it is a bit like saying that because we have laws against speeding no-one will drive over the speed limit.

Suspicions that doctors were taking the lives of their patients without need or request have been confirmed, according to research conducted by the Netherlands Government Committee to Investigate the Medical Practice concerning Euthanasia, the Remmelink report. I know how fond Mr Moore is of this report, and I am sure he will try to convince us that this will not happen here; that no-one will slip through the safety net that he claims that he has set up. Figures show that in 1990 over 14,500 people died in the Netherlands by involuntary euthanasia. In 45 per cent of these cases not only the patients but also their families were not aware of what was being done. The deaths of 8,750 people were caused through the withdrawal of life-prolonging treatment

without the knowledge, let alone consent, of patients or their families and a further 6,000 lives were actively terminated through the administration of lethal doses of drugs. Of those undergoing involuntary euthanasia, 1,500 were fully competent, and in 8 per cent of cases other courses of action were still possible.

As I have just said, Mr Speaker, my friend Mr Moore has been known to question these figures and probably will question them today, saying that they are misinterpretations of the original statistical data. The writers of the original report agree that that may be the case, saying that only a small number of people have been euthanased. Mr Speaker, I think that their objections fall down, however, on two counts. Firstly, they define euthanasia in uncommonly narrow terms and use other terms, such as "assisted suicide" or "drugs administered with the explicit purpose of hastening death without explicit request", which they say are not euthanasia. Secondly, if I were to concede, which I emphatically do not, that the numbers were wrong, the report still shows that people are dying without their explicit request; that is, they are being killed - nothing more, nothing less.

Mr Moore: The same as happens here.

MR OSBORNE: Mr Speaker, when Mr Moore stood up and gave his speech, I went out of my way to sit here and not say a word, so I request that he do the same while I give mine. Is that fair?

MR SPEAKER: You have the Chair's protection, Mr Osborne.

Mr Moore: I raise a point of order, Mr Speaker. You could explain to Mr Osborne that a small amount of healthy interjection - indeed, my interjection was rather minor - is a normal part of parliamentary practice, but I shall contain myself.

MR SPEAKER: There is no point of order. Please contain yourself, Mr Moore. Proceed, Mr Osborne.

MR OSBORNE: Mr Speaker, surely this is a breach of the autonomy and freedom to choose that form such an important part of pro-euthanasia arguments. Before I move on, Mr Speaker, I think we need to realise two things. First, with the legalisation of voluntary euthanasia there is no doubt that over time the quality of medical treatment and care will generally deteriorate as killing, rather than treating, becomes an acceptable alternative in medical care. I would suggest that the resources of the medical community concentrate on eliminating the problem and not the person. Secondly, practical experience has shown that people will die unnecessarily as a consequence of governments allowing voluntary euthanasia. There can be no escaping this, Mr Speaker. Can Mr Moore guarantee that this will never happen? In the Netherlands this has brought anxiety and fear to many, particularly the elderly and the ill.

The next area I want to deal with, Mr Speaker, is autonomy. It would seem to me that this is the main thrust of Mr Moore's argument. The question posed is whether this type of legislation is going to increase the autonomy of the seriously ill or whether it is going to diminish that autonomy. The pro-euthanasia lobby has presented the case that people should spend more time thinking about how they want to die. I certainly do not disagree,

Mr Speaker. I agree that the individual should have more control and that practitioners should have less. The question is: How do we promote the individual's choice? I have heard some people say that, for the individual, choosing death should be a bit like choosing a career. You decide how you want to die, where you want to die and at what time you want to die and it will not have an adverse effect on other people's autonomy.

The reality, Mr Speaker, is that they simply misunderstand the nature of human choice. Human choice is not a simple matter of "I want this; I want that". I wonder what type of world it would be if that were the case. If we look at our own lives, Mr Speaker, I would imagine that we would all like to change things. We would all like better jobs. I know that I would. Perhaps we would like to be rich and famous. I am sure that Mr Hird would like to be more handsome. There are things we would like to choose; but the reality, Mr Speaker, is that society influences our choice. It constrains our choice and it puts us into positions we do not necessarily want to be in.

Mr Speaker, the terminally ill, the people at the forefront of this whole debate, are not at the height of their powers as many of us are. They are languishing in positions where they feel that things are out of their control. These people are dependent on the medical care they receive and on the support of relatives and friends. There is no doubt that they are in a very vulnerable position. Simple things like someone refusing to visit a sick person can be the difference between wanting to fight and wanting to give up, between having a life worth living and having a life they want to end. This legislation enables relatives, for whatever reason, to think that the person should just let go.

Mr Speaker, to deny people the sorts of things that make life worth living in the late stages is not giving them an autonomous choice, but under this legislation it could and probably will happen. Pro-euthanasia people will say that I am not being compassionate by denying people the right to take this option. People who take this line often reduce it all to the physical level. Obviously, that is part of it. However, compassion is about walking side by side with people and trying to eliminate the problems, whether they be physical, emotional or spiritual. Being compassionate does not mean eliminating the person.

The next point I want to get onto, Mr Speaker, is the notion that the best death is the pain-free one. You choose the time and place and how you would like it to be done. I can already see the subtle manipulation that could result from this type of somewhat distorted social norm about what is a good death. Here we have people who are intensely vulnerable, people who are very dependent on their relatives or their doctors for support and on the community for good quality care. They are being presented with a model that says, "A good death is as soon as possible, thank you very much, and please hurry up. We have someone waiting outside for the bed" or perhaps, "We need to sell your house to pay off our own mortgage". I know it sounds far fetched, Mr Speaker; but, as I have said before, it is a terribly sad thing about human nature.

Mr Moore: Nor is it in the legislation.

MR OSBORNE: I must be hitting a raw nerve, Mr Speaker. Mr Speaker, if I were looking at Mr Moore's arguments on their face value just from the point of view of the odd individual choice, I could not be anything but sympathetic. Even now I am sympathetic. I am not going to stand up here and point my finger and condemn someone else. What I needed to do was look at the whole picture, the fine print, before I stood up and took him on. The challenge to me was to go beyond my own Christian beliefs and look at this from a non-Christian point of view. It would be very easy for me to stand up and say that I am against it because I am a Catholic and I am a Christian. It would be a very short statement from me. But the more I went into it and the more I looked at it, the more I became convinced that if people with no belief in God knew the long-term social ramifications they would be totally opposed to it, as I am.

The presumption that euthanasia should be legalised works on a false assumption, or at least a questionable one. Is the morality of euthanasia accepted by the community? A recent survey asked the community whether, in their opinion, if a terminally ill patient suffering unbearably with no chance of recovery asked for a lethal dose so as not to awaken again, a doctor should be allowed to give a lethal dose. Seventy-five per cent of 500 people said yes. However, this reflects somewhat woolly thinking about the facts of euthanasia and palliative care.

Dr Brian Pollard, a man who has had extensive first-hand contact with the sufferers and their families, has reflected and written at length on euthanasia. He notes that cancer is the main cause of terminal illness. Good palliative care today is such that pain caused by cancer can be reduced to at least tolerable levels. He notes that what is often referred to as unbelievable pain may be and usually is a condition that some doctor has not relieved or knows how to relieve on which he has not consulted an expert for assistance. The recent survey could equally have asked, "If a doctor is so negligent as to leave a terminally ill person in severe pain for whatever reason - severe enough to drive that person to ask to be killed - should the doctor then be able to compound his negligence by killing his patient instead of seeking help?". I suggest, Mr Speaker, that the survey would have perhaps had a different result and the facts could have thrown the whole debate into a new light. Mr Speaker, I would suggest that the overwhelming majority of people, upon hearing my arguments, would have an entirely different attitude from the one Mr Moore claims they have. As for his mandate, we all have a mandate to try something in here, no matter how distorted the argument may be.

Mr Speaker, I turn to the law and voluntary euthanasia. It is noteworthy and by far the most compelling thing to me that no code of ethics or law has ever suggested that anyone has a right to kill. This is so, Mr Speaker, because, to state the obvious, the right to life is the most basic right we have. It is inalienable. It can be forfeited and should be forfeited only in the case of an unjust aggressor, be it an individual or a community. This ensures, according to the Universal Declaration of Human Rights of 1948, that we all have equality at law. However you cut it, however you try to pretend it is not so, to legalise euthanasia you would have to say this: "Innocent life can now be killed". It is essential to understand this. If you allow euthanasia on the grounds that the quality of a person's life is such that their life is no longer worth living, then all life as we know it is de facto

threatened, because all life is lacking some quality. We as human beings will no longer be equal at law. We will have a quality of life at law if this legislation goes through. Once we as an Assembly introduce a quality of life ethic, replacing the existing quality of life ethic, you will have a whole new ball game well beyond the point under discussion.

You might argue, Mr Speaker, that I am taking a long shot in saying this, but the point is that an individual can choose to be an autonomous individual only in the community. To be is to belong. To say that autonomy is absolute is ridiculous. We are social by definition. To legalise voluntary euthanasia on the grounds of quality of life is not just a matter of discussion or debate; it is a matter of fact. In February of this year the Justice Minister for the Netherlands saw no reason why involuntary euthanasia should not be legalised and extended to those not in the terminal stage of their illness. It is a noteworthy fact, Mr Speaker, that the Patients Association set up a hotline to counsel patients concerned about that practice in their country. There are doctors in the Netherlands who advertise that they do not perform euthanasia. The elderly fear doctors and often fear taking medication. In the Northern Territory sensitivity to the indigenous people seems to be forgotten, as many of the indigenous people fear approaching hospitals in light of the legislation there. *(Extension of time granted)* I find it ironic that legislation introduced on the grounds of compassion threatens the most vulnerable. What is introduced in the guise of choice becomes expectation and perhaps, one day, obligation. We as a society should be doing more to alleviate the stress that people, not only the patients but also the doctors and the loved ones, suffer. We should be looking at better funding for the ageing population.

Finally, Mr Speaker, what message are we sending the young people of the ACT? A huge number of them are unemployed. The suicide rate per capita amongst these people in the ACT is the highest in the country. Here we are considering legalising the killing of people who are innocent, simply because they lack quality of life. Would they surely not see through the hypocrisy of the moral outrage against nuclear testing in the Pacific as a threat to life as we know it, when the people who protest long and loud are the ones in favour of the legalised killing of innocent people? Where is our consistency, Mr Speaker? We live in a real world in which things are not perfect. Let us relieve the human being's distress rather than kill that human being.

MS FOLLETT (Leader of the Opposition) (10.54): As members will know, I am supporting Mr Moore's Bill. I have certainly not taken this position without a great deal of thought and careful consideration of the rights of the terminally ill and the responsibilities of those who care for them. Mr Speaker, I would like, first of all, to explain my reasons for supporting the Bill. I will then deal with some of the comments that I have received from the community on this issue. Like most people, I cannot imagine any circumstances in which I would wish to take my own life or would wish my life to be brought to an end by someone else. However, it seems to me to be quite presumptuous to seek to make this judgment for anyone else, especially where their circumstances are radically different from my own. For example, we all know that people commit suicide, even though as a community we put considerable resources into preventing suicide. This is a cause which Mr Osborne has raised and which I believe we should put even more resources into. But we also know that suicide is not a crime in the ACT.

We know that, probably on a daily basis, people choose not to have, and indeed choose not to give, medical treatment which might just prolong a life. This is an everyday occurrence. There are many reasons for such a decision. The treatment may be judged to be completely futile or to be more distressing to the patient than the disease itself. This is not against the law either. We know also that it is by no means unusual for drugs or other pain relief to be given to terminally ill people, even though this measure will probably prove fatal, on an informed judgment of that matter. This is not against the law either. In fact, the Assembly endorsed this very course of action last year.

Mr Speaker, there is nothing in any of these circumstances which would prevent or militate against the greatest care and the best of medical assistance being available to all who are facing death, either because they are contemplating suicide or because of a fatal illness. It goes without saying that, as a community, we would wish every resource available to be poured into preventing the deaths of those people if it is humanly possible. Indeed, Mr Speaker, the issue of health care, including mental health care, has been the most serious debate in politics, both locally and nationally, for many years. Health care is the largest single budget item for most State and Territory jurisdictions and will continue to be so as new and better ways for treating illnesses emerge. The provision of health services is one of the most stringent areas of assessment of any government's performance in providing services to its community, and I expect that this will also remain the case for many years.

What Mr Moore's Bill seeks to do is to provide that people in the terminal stages of a terminal illness, at their own instigation and only at their own instigation - a point that Mr Osborne seems to have missed - may seek help to end their lives. For the overwhelming majority of people, Mr Speaker, this will never be an issue, and thank heavens for that. Most of us will probably die relatively free of pain, because we die very suddenly, after falling into a coma or - and this is very important - with effective pain control and palliative care provided in our community by a service which we have every reason to be proud of. There are, however, a small number of people for whom death does not follow this course. There are people who know that they have a terminal illness and that death is inevitable and who continue to suffer severe pain which the best of care does not effectively relieve. I have heard that 15 per cent of dying patients are in this category. Even amongst this 15 per cent, many will choose to live for as long as they possibly can despite the pain and suffering. That is the case. We know that. For some, however, faced with continuing pain and an inevitable death, the option of assisted suicide may seem preferable.

I cannot see any benefit to those people themselves, to the community or to any other entity in denying that small group of people this additional option. As I said earlier, I cannot imagine myself ever taking that course of action, but I have never suffered intractable pain, especially not with the knowledge that death was the only possible outcome. It is equally difficult for us to imagine anybody we care about, whether it is a friend or family member, seeking voluntarily to part with us a minute sooner than nature might have intended. But I repeat that I see no great moral good in obliging those people to continue their suffering, particularly if that continued suffering is only for my peace of mind or that of the rest of the community. The decision to end life must be taken by the patient. There is no other course of action envisaged by the Bill before us, and nor should there ever be. Equally, the decision to assist in ending life must be taken by those best

qualified to provide that assistance and must be taken without any duress. Again, this is what the Bill provides for. This Bill, like the Labor Party policy that it mirrors, seeks to make practical and legal provision for people for whom, in their judgment, death is the only means of alleviating severe pain and protecting those who assist them.

Mr Speaker, I would like to address some of the objections to the Bill which have been put to me in conversation and in correspondence on this issue. Many people have expressed their abhorrence towards euthanasia in any form. Indeed, I have to say that the level of community awareness of the Act already passed by this Assembly seems to be very low. These writers make no distinction between the withholding of treatment, the provision of pain relief to the point where it will probably be fatal and the provision of assistance for the purpose of ending a life. They apparently object equally to all courses of action. Of course, I support their right to hold such a view, but I consider this to be an extreme view, to be inhumane and to deny all of us any rights as patients to choose the level of care provided to us in a terminal illness. On the figures which are available, this is very much a minority view in our community. The majority of people - indeed, the overwhelming majority - appear to be in favour of euthanasia in some form.

I have received very few statements of opposition to the precise terms of the Bill which is before us today. Most statements that I have received of this nature - and there have been very few - have been in the form of conversations rather than written submissions, and many have been conversations with elderly people who are concerned, as Mr Osborne has canvassed at length, that they will be done away with against their will and as an alternative to their receiving full and proper medical and personal care. These concerns, I believe, are very understandable, given that many older people in our society feel ignored, undervalued and vulnerable. I know that the ACT Council on the Ageing, amongst others, has been trying very hard to project more positive images of ageing and to empower elderly people. However, there remains a great deal to be done in this regard. I would also like to thank COTA for their contribution to the debate on euthanasia. In producing their issues paper and adding substantially to the community debate, they have continued to play, as they always have played, a very important and effective role. It would be easy for us to dismiss the fears expressed by elderly people as groundless and to assure them that, if their worst fears were realised, that would be murder and would be prosecuted as such. That, of course, is scarcely a comfort to them.

The fact, Mr Speaker, as in so many other areas of life, is that we must all rely at some stage on other people to ensure that our wishes are carried out. This is the case in, for example, a contract for the supply of goods or services, in employment, in property matters, in banking and in legal matters such as wills and so on, just as it is in the supply of medical treatment overall. We generally assume, and we have every right to assume, that when we have expressed our wishes clearly, and paid for them if appropriate, those wishes will be adhered to by the other parties concerned. The very point of the Bill we are considering is that it can be brought into effect only at the express wish of the person who has a terminal illness. Even an existing power of attorney cannot be used to make this decision on behalf of another person. In my view, Mr Speaker, there are sufficient checks and cooling-off periods in the legislation to ensure that no-one will be euthanased against their will or with any duress whatsoever. Similarly, no medical professional can be obliged under this legislation to assist anyone to terminate their life. Again, they participate only of their own volition.

Mr Speaker, I have had put to me also the view that this Bill somehow means that palliative care will be reduced or not provided to dying patients. This, of course, is nonsense. Canberra, as we all know, is very fortunate in having a palliative care service of the very highest standard. It is a service which is greatly valued by all who come into contact with it. Successive governments have sought to add to the palliative care resources in the community. Most notable in recent times has been Labor's action in funding and opening the ACT's hospice. I regard it as little more than scaremongering to imply that there is anything in this Bill which will jeopardise palliative care. I can certainly offer the assurance that, if there is any such jeopardy, everyone in this Labor team will support to their utmost the continued provision of a full range of high-quality palliative care services. Nor should euthanasia ever be seen as some kind of an alternative to palliative care. Clearly, such a view completely ignores the wishes of the patient concerned. As I have said before, it is the expressed wishes of the patient which this Bill seeks to protect.

In conclusion, Mr Speaker, my support for this Bill is based on my desire to extend the options available to people in the terminal stages of a terminal illness, particularly those whose pain and suffering cannot be relieved by current methods. My support, whilst quite firm, is offered with a great deal of regret that not everyone is granted an easy death. I have seen enough of diseases like AIDS and cancer to know that, for a small number of people, the suffering at the end of their disease may be unendurable for them. If they wish it - and only if they wish it - I believe they should be offered a way out, and those who use their professional skills to help provide that way out should not be subject to criminal sanction.

Debate interrupted.

DISTINGUISHED VISITOR

MR SPEAKER: I inform members of the presence in the gallery of the Leader of the National Party, Mr Tim Fischer, from the Commonwealth Parliament of Australia. On behalf of all members, I bid him a warm welcome.

MEDICAL TREATMENT (AMENDMENT) BILL 1995

Debate resumed.

MR DE DOMENICO (Minister for Urban Services) (11.07): I heard what Mr Osborne and Ms Follett said. I will not be supporting this Bill. My condemnation of the Bill should not be seen as a condemnation of any individual or any individual view. To condemn any individual would be to condemn many people I personally love and respect and who have a view opposite to mine. I am thankful that I can express my individual view on the issue. This Bill is something that I racked my mind about.

Being a Catholic and a Christian, I am not condemning anybody who disagrees with my view as being non-Christian or non-Catholic. I am aware of many fine Catholics and fine Christians who have a point of view different from mine. The third point I need to make is that one of the things that really made me think long and hard about what my view was going to be was that I am one of those people Ms Follett mentioned who have suffered cancer and intractable pain. When you have suffered such a disease, the first thing you think of, let me tell you, is how long you have to live. I hope that I have a hundred years. My will to live was the thing that really pulled me through.

Having said that, Mr Speaker, I should say that, in my view, euthanasia is the soft name for the act of taking a life. It is portrayed as a caring decision made as a result of the choice of individuals. But this cannot avoid the harsh reality that it is a deliberate and conscious act to extinguish a life. We are told that in this Bill, just as in legislation in the Northern Territory and overseas, there are adequate safeguards which will ensure that there is no involuntary euthanasia. Frankly, I am not convinced. The reality is that, while laws may be drafted in the strictest terms and have strong safeguards, those laws are policed by human beings with all their fallibilities and foibles, and the will to enforce those laws may change over time. Those who advocate euthanasia are almost invariably those who oppose capital punishment, primarily because of the danger that the innocent may be executed. The proponents of euthanasia effectively have less regard for the protection of the weak, the vulnerable, the sick. While I have great respect for the medical profession and for carers in our community, if but one person is killed against their will under this type of legislation that is a tragedy for our community and must be our collective responsibility.

This debate has been proceeding for at least 50 years. Euthanasia has been the subject of many reports such as that of the New York State Task Force on Life and the Law and most recently that of the select committee of the British House of Lords in January 1993. This latter report, as with many others, rejected euthanasia. It is worth quoting part of that report in light of today's debate. It said:

> There is insufficient reason to weaken society's prohibition of intentional killing which is the cornerstone of the law and social relationships - it protects each one of us impartially, embodying the belief that we are all equal.

Mr Speaker, Eleanor Roosevelt once said:

> It is not that you set the individual apart from society but that you recognise in any society that the individual must have rights that are guarded.

It is our responsibility to protect the rights of the weakest and the most vulnerable, even if that means appearing to restrict the preference of some. The cornerstone of the argument advocating the right to die is that each person should have a choice as to when to die. We live in a society where rights and choices, if those are the correct terms in this type of debate, are limited. There are prohibitions on torture and mutilation because society recognises that it is wrong to allow such behaviour whether or not people wish it.

So it is with euthanasia. We as a community have a responsibility to care for those who are the most vulnerable - the disabled, the sick and the frail - and least able to resist suggestions to hold onto life. Mr Speaker, if the Dutch experience is any indication, there is growing anecdotal evidence that euthanasia has moved from an option to a preference to an obligation for those who feel they are a burden.

We also hear from some of the proponents of euthanasia that those who oppose legalised killing - for that is what it is - are into control and against choice. They say that opposition comes from the churches, who are keen to keep control over their parishioners. This is untrue. Those who oppose euthanasia are from all walks of life. Some are Christian; some are atheists. Often their only similarity is the shared commitment to sacredness. They are not into control but care and realise that the untimely death of one of their community or threat to any others diminishes the humanity of the community. Many of them have had experience with relatives and friends who have been sick or have died after a prolonged illness. Many of them have cared for those who have suffered and are keenly aware of the value of proper palliative care as the appropriate way of addressing the suffering of those within the community.

Dame Cicely Saunders, the founder of the modern hospice movement, has said that she, as with most other workers in the hospice teams, deals regularly with patients who in a fit of delirium or depression have asked for an end to their suffering. Yet those patients often change their minds once symptoms of their sickness are effectively tackled and assurance is given that treatment now is only to enhance the quality of life and not to prolong it; that prolonging it is no longer desired or indeed possible. Dying persons often use such expressions as “I wish it was all over” or “I wish I could just die”, but research by eminent psychiatrists with extensive experience with suicide - for example, Hendin and Klerman - has found that, when explored, these words are not meant to be taken as a wish to be killed. They are prompted by fatigue, fear, frustrations or similar emotions and, like other manifestations of emotions in such patients, may change from day to day or sometimes from minute to minute.

The challenge, then, or rather the obligation, I believe, for this Government and any other government and the community in general is to provide adequate care for those who are in their twilight months or years. We as a society must recognise that palliative care is as important as the care of our young and the otherwise healthy. Our aged and sick need to be assured that they still have value for others as well as for themselves. Their basic and simple right to relief and support in their twilight years should be ensured and not threatened by expedient solutions. If we are to give meaning to the phrase “a caring society”, we must ensure that everyone is free from pressure and has a chance to use their last weeks and months as fully and as individually as they can. Legalised euthanasia cuts across that very ethos. It is the ultimate quick fix for those who are willing to choose expediency over fundamental rights which have underpinned our society's values.

It is the first purpose of medicine to restore the health of patients. If this can no longer be achieved, there is still much for doctors to do in relieving pain and suffering, even if the measures they take may incidentally shorten life. But no doctor or any other person has or should have the right deliberately to cut the thread of life. Mr Speaker, we must face the problems of our society squarely and with honesty. Euthanasia, in my view,

is a quick fix for problems that must be addressed forthrightly. The sick and the dying can and should be able to lead fulfilling lives. There are many carers and hospices putting this philosophy into practice. It is for this Assembly and parliaments around Australia to improve on the achievements already made and to continue to give support and palliative care to those who need it for as long as they need it.

MR WOOD (11.16): Mr Speaker, I will not support Mr Moore's Bill. As an ordinary citizen, it sometimes seems to me, as it does to others, an acceptable proposition that my life could be deliberately closed if I chose to order so. This could be in circumstances where I had lost my identity, where I had ceased to be the person I had always been. I am troubled by the thought that I could lose the identity that has characterised my life. It is also a great concern that I could become an enormous burden on those I love. But I reject the solution of euthanasia, for a number of reasons. I will always remain unique, special, no matter what the circumstances. And life cannot so easily be cast away. The sanctity of life is so important, and this citizen cannot agree to any proposal that a person could be appointed to act as a terminator. No-one should be asked, or begged, to carry out that role.

But there is a further dominating factor in making the decision that I have made. Even if the proposition were acceptable to me as an ordinary citizen, I could in no circumstances accept it as a legislator. No government, no parliament, can sanction the premature termination of life. That is destructive and dehumanising, and it is no path for governments or legislators to follow. It opens the frontier between life and death to a multitude of awesome possibilities. Governments must act vigorously, absolutely, and with great determination to enhance life, to protect life, to respect and to revere life. It is important, therefore, that the ACT Legislative Assembly reject this Bill.

MR KAINE (11.18): Mr Speaker, I will not support this Bill. The debate on this issue in the ACT has been going on for quite some time, and I do not think any of us in this place have taken the debate lightly. For my part, I have tried to remove emotion from it, to look at it in a dispassionate way and come to a conclusion not based on an emotional response. I have done some considerable research into the matter, because this is not an issue that is being debated in the ACT in isolation; it is an issue that has been raised in some very significant places in the world. In the last two years there have been major investigations into this matter in the House of Lords, in the Canadian Senate, and in New York State in the United States. I remind people that the city of New York alone has more citizens than the whole of Australia, so we are not talking about an insignificant community when we talk about the State of New York. In all three cases the concept of active euthanasia has been rejected.

These investigations have not been done by lightweights; they have been done by people of some consequence, learned people. Yet they have reached a conclusion contrary to what some people in this Assembly would seek to put into place today. I have some documents that I will quote from. The first is from a study done on euthanasia in Holland. It is a little dated - it was done in 1992 - but it was done by Brian Pollard, a Fellow of the Faculty of Anaesthetists in the Royal Australasian College of Surgeons. His conclusion and much that he says are things we in this Assembly today need to think about carefully. In his conclusion he says:

> Advocates of euthanasia in Australia continue to propose legalised euthanasia like a slogan or mantra, without any apparent felt need to come to terms with any of its practical consequences, in disregard or in ignorance of its evident aberrations elsewhere. The risks of perversion are inherent in the nature of the problems surrounding dying and the nature of law, and could not therefore be avoided by regulation.

We need to listen carefully to some of these words. I mentioned studies elsewhere. People who have not done so should read the report of the New York State Task Force on Life and Law, which was brought down only last year, in May 1994. You do not need to go beyond these words in their executive summary, which are very significant:

> After lengthy deliberations, the Task Force unanimously concluded that the dangers of such a dramatic change in public policy would far outweigh any possible benefits. In light of the pervasive failure of our health care system to treat pain and diagnose and treat depression -

it sounds like the ACT, does it not? -

> legalising assisted suicide and euthanasia would be profoundly dangerous for many individuals who are ill and vulnerable. The risks would be most severe for those who are elderly, poor, socially disadvantaged, or without access to good medical care.
>
> In the course of their research, many Task Force members were particularly struck by the degree to which requests for suicide assistance by terminally ill patients are correlated with clinical depression or unmanaged pain, both of which can ordinarily be treated effectively with current medical techniques. As a society, we can do far more to benefit these patients by improving pain relief and palliative care than by changing the law to make it easier to commit suicide or to obtain a lethal injection.

These people did not write those words lightly. They wrote them after very careful consideration of the facts as they understood them.

To revert to the paper on euthanasia in Holland, to which I referred before, it deals with the statistics of euthanasia, among other things, in Holland. It notes that in that year, and this is quoted by a number of authorities elsewhere, there were 1,000 instances of terminating life without any request. That is very interesting, because the advocates of law and regulation of this matter say, "You can write the laws and you can regulate so that everything is okay". Yet in the Netherlands in that year there were 1,000 cases of people being put down by a medical professional without the request of the patient. On that matter Brian Pollard reaches a number of conclusions, and again I will read them. He notes:

> After making allowance for possible differences in culture and social attitudes, but remembering that human nature does not greatly differ with geography, I believe the lessons for Australia are these:

> . Our present law protects the lives of all, especially the lives of the most vulnerable, as it should. This protection would be lost if new law allowed the killing of any innocent persons. Legalised euthanasia would uniquely put at risk a vulnerable group, and would constitute a possible precedent for the identification of other groups at another time.

That sounds a warning, and I think it is something we should listen to. He goes on:

> . The example of Holland is consistent with what may be expected of perverse human nature, given the appropriate circumstances. There could be no assurance that such things could not happen here, or that we would manage new laws any better.
>
> . It cannot be maintained that a proper law, which is said to be missing in Holland, would guarantee that euthanasia could be controlled. There is a proper law in Holland, and it is comprehensively disregarded. Why could not the same happen here?
>
> . Experience in several countries has shown that it is impossible to write effective safeguards into proposed euthanasia law, so that its application could not be extended to unwanted groups of persons.
>
> . The slippery-slope argument is usually misinterpreted as meaning people of good intention may be gradually hardened, so as to accept more grievous actions. Rather, its potential is inherent in the attitudes of those who propose killing when there is no need to do so and who, in time, may presumably want it also in other circumstances. "They start with those who are a nuisance to themselves and end with those who are a nuisance to others".

Those are significant lessons that come from the Dutch experience. Are we going to cast it aside and exercise our own judgment and say that we are better informed and smarter than those people? I do not think so.

From the three major inquiries I talked about that have been undertaken in the last couple of years, I note that, whilst some inquiry members saw assisted suicide as not unethical or incompatible with medical practice and believed that providing a less prolonged death in some cases respected patient autonomy and showed care and commitment by health professionals, the same members felt that legalising assisted suicide would be unwise and dangerous public policy. I agree with them. None of the three inquiries considered it possible to draft laws that were safe against negligence, for example, misdiagnosis, or unscrupulous actions which kill the vulnerable or the weak. In fact, the House of Lords committee concluded:

> To create an exception to the general prohibition of intentional killing would inevitably open the way to its further erosion ... Decriminalisation of voluntary euthanasia would give rise to more and more grave problems than those it sought to address.

I agree with that too. The Canadian inquiry found - and this is a matter I raised in this Assembly not so long ago, when Mr Moore first tabled his Bill as a discussion paper - that opinion poll results may not give a valid picture of public attitudes; that results need to be interpreted after analysis of the questions and of respondents' knowledge of the issues. American opinion polls indicating 80 per cent of those polled as favouring euthanasia are at variance with formal votes recording only 45 per cent in favour. So, as I pointed out recently, it depends on the nature of the question and the people who are answering the question, whether it is an impersonal thing or a personal thing for them, and it depends on the occasion. I have grave difficulties with this issue, and I believe that we have some eminent authorities to whom we should listen carefully.

To conclude, I would like to quote from two letters. I have not been able to obtain the authority of these people to name them, so I will not. The first letter is from a vascular surgeon from Melbourne. He begins:

> I wish to state my absolute opposition to euthanasia.

I will not read the whole letter, but he says that the proposal for active euthanasia is extremely dangerous, it totally ignores the sanctity of life, it totally ignores morality, it totally ignores Christian ethics, and it does not allow for mistakes in diagnosis or estimates of prognosis. That is from a vascular surgeon. He goes on:

> It is unquestionably true that with modern palliative care there is no need whatever for euthanasia. If a patient requests euthanasia, it is an indication that the patient is not being adequately cared for.

Finally, he says:

> It is interesting to note that most dying patients will have quite potent opiate drugs by their beds. Usually there will be quite sufficient amount of such drugs for the patient to use them to commit suicide should the patient so wish. In fact, I have never seen this happen. In fact, most dying cancer patients have a strong desire to live as long as possible, provided they are well treated and pain and discomfort is well controlled. The scenario of cruel doctors keeping patients alive on machines in terrible pain when they have no hope is an utter fiction, and this scenario is used by the proponents of euthanasia ad nauseam. It never happens.

That is from a vascular surgeon. I think he knows what he is talking about. Finally, I quote from a letter from an ordinary citizen in this city, a lady who has obviously given the matter considerable thought. She says:

> No humane, compassionate person wants people to suffer unnecessarily, and at the first glance, euthanasia appears to offer relief to the suffering. Unfortunately, one has to take into account human nature.

I have quoted some statistics from the Netherlands - they are commonly known - and I have quoted the reservations of people in such places as the House of Lords, the Canadian Senate and the State of New York on that issue. Again without reading the whole letter, she goes on:

> Doctors with long experience in dealing with the dying say that terminally ill patients hardly ever ask to have their lives ended. Why then the impulsive, unthinking, undemocratic push for euthanasia?
>
> Secondly, introducing even a restricted form of euthanasia opens a pandora's box of fear and suffering. Pressure from the euthanasia lobby and others would then be exerted to extend the categories of persons who can be killed, a question raised by other eminent experts in the matter.
>
> Thirdly, the practice of euthanasia brutalises its practitioners. That is, once doctors and nurses become accustomed to killing, they lose the compassion and care they formerly had for the sick and dying.
>
> Fourth, old, sick or disabled people will feel pressured to offer themselves to be killed so as not to be a burden on their relatives or on hospital staff. People will be afraid to go to their doctor, into a nursing home or hospital.
>
> Euthanasia is an inhumane cop-out in a climate of escalating health costs. People already have a right to refuse medical treatment which they find burdensome, and this is not euthanasia.
>
> Finally, pressure will be exerted on doctors and nurses, et cetera, to perform euthanasia against their beliefs and their will. A Bill may theoretically provide against this, but in practice it does not work.

This is not necessarily one of the world's great thinkers; this is an ordinary citizen out there who has obviously thought about this subject. She reaches much the same conclusions as eminent people in the House of Lords, the Canadian Senate and the State of New York. I believe that for us to ignore the ordinary citizens of the ACT, to ignore a vascular surgeon who is in touch with the matter constantly, to ignore, incidentally, the words of the Australian Association for Hospices and Palliative Care, which I have not quoted but which raises some very real words of caution about the matter, and to set aside the decisions of some very eminent people throughout the world on this issue is something this Assembly should not contemplate. For those reasons, I will not support this Bill.

MR CONNOLLY (11.33): Mr Speaker, the issue of euthanasia raises for legislators very fundamental questions about life, death and the state, and almost by definition is probably the most difficult question that will cross our desks. It is made more difficult for me as a member of the Labor Party because our party has a platform commitment that favours active euthanasia on a voluntary basis and subject to quite tight safeguards and restrictions. Last year when this issue was debated in the Assembly my party took a view not to support the Moore Bill. This year my party has taken a different decision and, as a very long-term and very loyal member of my party, that did cause me great distress. It is, and this should be put on record, a recognition of the great maturity of the Australian Labor Party that since I and my colleague Bill Wood made our concerns public we have had statements from our parliamentary leader, from the president of our party in the ACT, John Langmore, and from the secretary of our party, Doug Thompson, that make it clear that our party is big enough and broad enough and mature enough to accept that on this issue members may have different views and those views may be expressed by way of different votes from those of the majority of my colleagues.

Having said that, I must say that it is not an easy question. I am pleased that in the debate so far nobody has sought to say that this is a simple question where all the right is on one side, because it is not. There are two fundamental and conflicting principles in the euthanasia debate. Both of them are principles that I think most members would broadly support. The first is the basic principle of the sanctity of life, which can be seen as a religious principle but can also be seen as a fundamental principle of humanist law, morals and ethics. We on this side of the chamber, and I hope those on the other side, would be all of one voice on the issue of the state taking life by way of retribution for a criminal act. It is not necessarily from a religious point of view that one can say that the sanctity of human life is a fundamental principle. There is also a fundamental principle of autonomy, a fundamental principle that an individual should be able, as far as possible, to choose their own way of life, their course of life. Again, on this side of the chamber we have had a very strong commitment to anti-discrimination legislation as to tolerance to the principle of individual autonomy.

On the question of euthanasia, those two principles come into obvious conflict. Nobody, I think, would take an absolutist view of autonomy in relation to the right to end a life. Mr Moore himself limits this principle. An absolutist principle of autonomy would sanction the practice of suttee, when a widow or widower leaps upon the funeral pyre. It may be a fundamental religious belief, but we would probably all accept that the state should prevent it. No-one, not even the most passionate advocates of voluntary euthanasia, would, I think, advocate the state providing assistance for suicide for people with a mental illness who seek to end their life. I have not seen anybody advocating that the provision of assisted suicide in those circumstances would be a sensible measure.

It does concern me somewhat, to come to some of the detail of the Bill, that in a very good paper from a person who does advocate that the law should sanction the right to euthanasia in cases of extreme pain - this is a paper by Professor David Lanham of Melbourne University in a recently published book on law reform, *Tomorrow's Law,* published by a group connected with the ANU Law School - he cites a recent Dutch case where a woman who had recently had a most unsatisfactory divorce and whose children had recently died asked a psychiatrist to provide her with the requisite lethal dose of pain-killer. That provision was rendered lawful under Dutch law on the basis that she was

facing unbearable distress and pain - pain in the psychological sense. I assume that there will be a view that that would not be lawful under the Moore Bill. You define pain or distress, and I think you could well mount an argument that there could be a mental health condition or, indeed, acute depression that could at least meet the definition of distress. You then have the question of terminal phase and terminal illness, which again are difficult to define and could raise difficulties for a person who had repeatedly attempted to be suicidal. Could that be a terminal phase of a terminal condition? I do not know.

The issue of euthanasia raises grave difficulties. I am essentially compelled not to support this Bill from my concerns about what the state sanctioning death as an option would mean for our community. It is a fundamental of all societies that death should not be a state-sanctioned option - other than in communities where there is a criminal penalty of death, and I say that they are wrong. For the state to sanction death in these circumstances, to me, opens a Pandora's box and dehumanises and desensitises the state. I do find validity in the so-called slippery slope arguments, as I am pleased to see do other thinkers, many of whom approach the question from an acceptance of the principle of voluntary euthanasia. Again, in Lanham's paper not only does he make the point that the Dutch experience should make us wary, but also he argues, and I think with some compulsion, that it is very difficult to keep a line between voluntary and non-voluntary euthanasia. He says that you can draw a line, and I would accept this, between those two and involuntary euthanasia, which any legislative body can always treat as murder.

It is very easy to move from the principle we start off with - that we should sanction the election by a person who is conscious and able to make a decision for intervention to end their life - to the proposition that a person who would have made such a decision should be able to end a life. One could see that the next step, were the Moore Bill to be law, would be a living will provision attached to the Moore Bill, which indeed many people favour. The step beyond that would be to take the normal practice that we as legislators take of guardianship law, where it is appropriate when a person is unable to make an informed decision for themselves that a body like the Guardianship Tribunal should be able to make that decision for them. That is the difficulty.

A further difficulty was well expressed in a paper that Lindsay Tanner wrote in the Melbourne *Herald-Sun* a couple of weeks ago. Lindsay Tanner is one of the younger members of the Federal Parliament, a Labor member from Melbourne, and is regarded as one of the deeper thinkers, I think, on the Left of politics at the moment. His argument has been made by many others; I am not ascribing this particularly to Lindsay Tanner. He starts his argument by expressing sympathy with people who wish to end their lives and acceptance that the practice occurs, but he says that there is a concern that, if euthanasia becomes an accepted option, if the state sanctions euthanasia, it creates subtle changes in the way we think about health care delivery.

I know, as a person who has been a Health Minister, and this is usually not expressly stated, that the reality is that health care in Australia, as in every community, is rationed. We do not have unlimited resources to provide health care. Once you accept that the state says that euthanasia - the ending of a life, the active involvement of a doctor to end a life - is a state-sanctioned option, it subtly shifts the balance, the sense of obligation of patients, the sense of patients that "Perhaps I should do the right thing". I am worried about the generation of people who have lived through wars and depressions and who

perhaps have an ingrained approach that "I should always think of somebody else rather than me; there is somebody who needs this bed more than I do", and the subtle pressures that the state sanctioning euthanasia could provide to push people in the direction of accepting the active ending of life.

Mr Speaker, like all members, I have received many representations from members of the community, many hundreds of letters overwhelmingly urging me not to support euthanasia, but some very strong and compelling arguments also in favour of euthanasia. I should acknowledge the difficulty that a very well argued letter from the AIDS Action Council has given me, and representatives of the council are present here today. I am afraid that I am not able to accept your views on this. I have on many issues, and I think my record as a legislator on those issues is a strong one, but I cannot accept the argument for active intervention to end a life.

One thing I am most proud of in my period as Health Minister is the fact that, with the support of my colleagues, the Labor Government was able finally to get up the concept of an ACT hospice - a concept that Wayne Berry championed for many years and got to the starting blocks. We ran into intractable Commonwealth planning problems, but we got it open. It was an indictment on the ACT that we were not able to offer the full range of options for people facing the reality of imminent death and needing expert palliative care. We now have that. It gave me great pleasure to see some of the recent press articles about how well that hospice is functioning. The arguments from the Palliative Care Association and statements from the national president of that body against active euthanasia now make sense in the ACT because we do have the option of quality hospice-based care, which we did not have until less than a year ago.

Mr Speaker, this legislature has previously debated the issue of euthanasia in the sense only of the so-called right-to-die law, the natural death provisions, and I think that should be referred to in any debate on active euthanasia. I share the concern Rosemary Follett mentioned earlier that that law is not widely known or understood in the community. The law we passed last year was not a unanimous view of the house. There were members who felt that on ethical, moral or religious grounds they were not able to support Mr Moore's natural death law. I thought they were wrong, and I supported that law quite strongly. I am concerned, and I have raised this before, that, when I asked how many times people have availed themselves of the ability to ask that life support treatment be withdrawn, the Government's response was that that information is impossible to obtain. That does worry me. If I were minded to support active euthanasia, the fact that such records are not available would certainly make me less minded to support it.

The fact is that any death in a hospital has to be investigated, quite properly, simply as part of the quality checking mechanisms within a hospital. There is a committee that looks at every case. Mostly, it is a routine matter; but, when a life support machine has been turned off and a person dies as a result of that, surely the first thing that goes before the committee at Woden hospital that examines all deaths and in most cases then goes on to the coroner in a paper brief, and the first thing that is recorded, is that that machine was turned off as a result of the written directions received in accordance with the relevant

legislation in the ACT. I put to the Chief Minister and Health Minister that, while the legislation did not itself require annual reporting or require a register to be kept, this is a matter of sufficient importance that the Government may advise the community of how often that occurs.

The other matter we debated without fully realising how important it was, I think, although certainly Mr Moore made it clear that it was an important step, is the provision in the ACT legislation that, essentially, provides a right to pain relief. I found it very significant that in the report of the Canadian Senate on euthanasia, to which some members have referred, they said that this was the most important issue. They rejected active euthanasia, but they said that there was a major problem with the law in Canada, and that is, of course, an environment where medical malpractice actions tend to be based on the American model. Doctors were scared to prescribe pain relief because they felt that they could be sued if the person died as a consequence of that high level pain relief. Mr Moore put forward an amendment last year, as part of his Bill, which we supported, which makes it clear that, provided the intention of that pain relief is pain relief, a doctor is protected from any action if a side effect of that pain relief is to hasten death or cause death. Provided that legitimately the motive is pain relief, we have given protection to doctors. I think that is a very important provision, and certainly the Canadian Senate report found that that was an important gap in the law in Canada.

Mr Speaker, for the reasons I have given, I am unable to support this legislation. I say that, acknowledging the goodwill of proponents of the Bill. I think it is unfortunate that there has been some suggestion that anyone who opposes this Bill lacks compassion. Some would say the opposite - that anyone who supports the Bill lacks compassion because they are taking life. I think the better view is that members, who have all thought deeply about this issue, have a common compassion. We may differ on whether the state should sanction the ability to actively end a life. I particularly say to those members and supporters and friends of the AIDS Action Council: I regret that I cannot support you on this issue, but this is an issue on which each member must examine their conscience and say, "Here I stand. I can do no other".

MR HUMPHRIES (Attorney-General) (11.49): Mr Speaker, this Bill obviously has a very heavy emotional overtone and in many respects, as we have seen, has the capacity to divide the community. To what extent it does so, of course, is a matter for some debate. It has been put to me in some of the correspondence I have received, and all members have received a great deal on the subject, obviously, that opinion polls have demonstrated clearly that the majority of people are in favour of euthanasia and therefore it is my responsibility as a legislator to enact laws to that effect. I reject that argument, partly because I reject the concept of people operating on the basis of opinion polls - the member who operated on that basis left the Assembly some 12 months ago - but also because I question whether people fully understand the implications of the term "euthanasia". Sometimes euthanasia will be meant, in the mouths of some people answering these polls, to reflect a desire to see people be allowed to refuse treatment.

Mr Moore: No; the question was specific and modelled on my legislation.

MR HUMPHRIES: Mr Moore says that he has better information about it. I would argue that when people hear this debate and they hear the idea of euthanasia they think instinctively, in many cases at least, about the right to refuse treatment, the right to die naturally, the right to refuse to have the life support machines continuing to pump the air or the nutrient into their bodies.

Mr Moore: Yes; but that is not the question that was asked.

MR HUMPHRIES: That might be what Mr Moore says, but I maintain that that is what people do think about these things. I suspect that the issue of a person being in the position of having their life terminated, perhaps while they are not even conscious, is an issue that is much more difficult. I believe that the likelihood of people supporting that in such large numbers when properly informed is much diminished. However, that is a matter we can consider for ourselves.

I intend to oppose the legislation today because I have strongly held personal views which dictate this reaction on my part and also because I believe that the legislation affronts the values upon which I believe all legislation in the Territory, all public policy, should be based. The subject matter of this Bill obviously concerns issues of life and death and pain and suffering, and those have deeply personal implications for all individuals in this place and outside it. The Bill goes to the most fundamental of ethical, moral and religious questions in our community, and it is understandable that the views should excite considerable antipathy in the community. I do not expect those who support Mr Moore's legislation to accept my decision, which is to vote against the Bill, but I do hope that those who do not support the legislation will be able at least to understand why it is that some do not see things in the same terms as those who support the legislation do.

The nature of the proposal before the Assembly is one that would enable a medical practitioner to perform a positive act that results in the death of a patient. The legislation builds in so-called protections, such as a cooling-off period and various preconditions, but at the end of the day, where the requirements or conditions in that legislation are satisfied, a medical practitioner will be permitted to administer a lethal dose of a substance to end the life of another human being. It is that fact, above anything else, which drives me to oppose the legislation. I cannot support it, because I regard it as being contrary to the duty we all possess to uphold the sanctity of human life. The termination of the life of a dying person, whether or not it is out of pity, whether or not it is carried out by a doctor or some other health professional, is a violation of fundamental tenets both of my personal faith and of sound public policy. Whether we profess to have particular religious convictions, whether we profess to be Christians or not, it remains true that Judaeo-Christian values and tenets underpin the basis of our society, including our obligations and rights as citizens to observe the law.

The prohibition on the taking of a life is not just a fundamental belief of the major world religions; society's prohibition on intentional killing is recognised as the cornerstone of law and social relationships. Reference has been made by Mr Kaine to the House of Lords Select Committee on Medical Ethics in 1993-94, which made this point very well. The report said:

> [The prohibition on intentional killing] protects each one of us impartially, embodying the belief that all are equal. We do not wish that protection to be diminished and we therefore recommend that there should be no change to the law to permit euthanasia. We acknowledge that there are individual cases in which euthanasia may be seen by some to be appropriate. But individual cases cannot reasonably establish the foundation of a policy which would have such serious and widespread repercussions.
>
> Moreover, dying is not only a personal or individual affair. The death of a person affects the lives of others, often in ways and to an extent which cannot be foreseen. We believe that the issue of euthanasia is one in which the interest of the individual cannot be separated from the interests of society as a whole.

The committee went on to conclude that it is not possible to set secure limits on voluntary euthanasia. Again, I quote:

> It would be next to impossible to ensure that all acts of euthanasia were truly voluntary, and that any liberalisation of the law was not abused. Moreover to create an exception to the general prohibition of intentional killing would inevitably open the way to test the limits of any regulation.

I believe that the practice in Holland has underscored the truth of that statement. As I have said, I cannot support in conscience the proposal by Mr Moore, regardless of what assurances the legislation he puts forward might offer.

I would urge other members to consider, irrespective of their personal views, the potential dangers of opening up the possibility of voluntary euthanasia and what they would mean for society's perception about the value of human life. I do not think it is overstating the case to suggest that the questioning of the value of human life, which is an inherent element of the arguments in favour of euthanasia, could see us start to ask whether euthanasia could apply not just to dying persons. Mr Connolly has already raised the question of how and where we draw that line. Might we not find it applied simply to people whose quality of life has been compromised by other circumstances, be it a handicap of some kind, infirmity, or great age? If we take the view that those whose lives are meaningless or of poor quality are better off dead, or might be considered by some in perhaps parlous circumstances to be better off dead, how long would it be before voluntary euthanasia might become involuntary euthanasia?

These issues should not be dismissed as hypothesising. There is some evidence already quoted in this place that there is such a crossing of the line in Holland. It is salutary to remember that the last time the notion of some lives not being worthy to be lived was accepted and promulgated on a large scale was in Nazi Germany and ultimately that led to the attempted extermination of entire races. I mention this as an illustration of how

a principle can be taken to an extreme. I do not pretend that any mover of this issue in this country holds any views of that kind, and that they are motivated by anything other than compassion; I accept that that is the case, but I think that with this legislation we cross the Rubicon.

I believe that we should not go down the path of preferring quality of human life to sanctity of human life. For my own part, it is contrary to those beliefs that make up the fundamental basis of our system of social values and the laws on which they are based. I appreciate that not all members will have that view, but there are other considerations. One of those considerations is whether judgments about the value of a person's quality of life could be extended to apply to handicapped infants at birth, or the elderly or the infirm - for example, sufferers from dementia.

Related to that is the sort of message we as a society are sending to those who are chronically ill or disabled, who are amongst the most vulnerable in our community. The Australian Medical Association, which has opposed this sort of legislation consistently, has remarked upon the pressure the possibility of euthanasia may place upon a person with a terminal illness, who may feel some sense of guilt about being a burden on his or her family. Other members have spoken about that. We need to be conscious of the fact that the option of euthanasia may influence the thinking of a terminally ill patient, out of a sense of duty to family, to seek assistance with euthanasia. In such circumstances, I think we have to question whether euthanasia really is truly voluntary in the sense that we must make it for it to be truly acceptable.

One of the elements of this legislation which disturbs me most fundamentally is the very consistent and solid opposition of those people who, under Mr Moore's scheme, would be responsible for administering this legislation, that is, members of the medical fraternity. I say "consistent and solid opposition"; I am aware that there are some groups - the Doctors Reform Society is one - that take a different view. Members, I think, are well aware that those views are a very small minority of the medical profession. I have yet to meet face to face a doctor who takes a different point of view. It troubles me that we should be engineering a system which we as legislators might think in other circumstances to be praiseworthy and wonderful and acceptable and imposing it on a profession, the profession that actually has to administer it, when there is considerable concern about, indeed strong opposition to, those very principles being thrust into the framework in which they do their work.

Nor can we ignore the possibility that economic considerations may come to play a part in the way our society approaches euthanasia. Once we embrace the concept of certain lives not being worth living, it is conceivable that, with the increasing pressure on health budgets around the country and around the world, there could be a temptation to deny scarce resources to a person whose life is considered to be of poor quality, when those resources might alternatively be directed to the care and treatment of someone adjudged to have a better quality of life. Mr Connolly has made reference to that argument. I have to say, also as a former Minister for Health, that there are massive pressures on our health system and that judgments about resources, in fact, are made on a daily basis by those who administer our health system and those who practise within the health system.

Those judgments are subtle judgments in many cases. They result in decisions being made about the allocation of resources between different people in our system. Having knowledge that those judgments are made, I do not believe that we assist people in that position one iota by legislating in this way. In fact, we complicate their position extremely.

Economic considerations may also extend to downgrading of the provision of palliative care services. I share the support of other members for the quality of our own palliative care services in this city, but I have to say that a regime that provides for some members to be taken out of that palliative care arrangement into the option of terminating their lives must present a threat to the very high standards of palliative care we have been able to achieve in this city. I believe that the issue of patient suffering, the experience of intractable pain, is an issue in this debate that is highly emotive but, on the part of the proponents of euthanasia, has been greatly exaggerated. One doctor put it to me that a medical practitioner who could not substantially relieve the pain of a terminal patient was not much of a doctor. It is wrong, I think, to link the issue of intractable pain to the availability of active euthanasia, even if there were such cases occurring on a wide scale. There is no way of limiting the principles inherent in this Bill simply to those who are suffering from intractable pain, rare as those individuals might be. The principles will be applied to those who seek it because of their state of mind, not just because of their state of body. We in this place cannot foresee where the application of those principles will lead, if we are in that position. *(Extension of time granted)*

I want, finally, to make a reference to the position of the Labor Party in this debate. Mr Connolly described his party's position on this question of euthanasia as being a sign of its maturity. I take a very different view of its general position in this debate. I would describe its position on this and other issues of considerable moral complexity in the last few years as being one of duplicity rather than maturity. Before the 1992 election there was some discussion about issues of abortion, for example. At the 1992 election no party took any position in relation to abortion and presented that to the community. Shortly after the 1992 election, of course, legislation was presented to radically alter the law in the Territory with regard to abortion. Similarly, a little over a year ago the then ACT Government told the community that it would not proceed with the issue of active euthanasia because of widespread concern in the ACT community. The then spokesman for the Labor Party on that issue, Mr Connolly, said:

> The Government is aware that a great deal of genuine concern exists in the community on the issue of active euthanasia. Accordingly, the Government did not intend at this time to support those sections of the ... Bill which provided for active euthanasia.

I think he was right to say that at that stage; but I am greatly concerned that less than a year later, with no contribution having been made to any public debate by the Australian Labor Party - it is worth bearing in mind that Mr Moore has been the sole carrier of the issue of euthanasia in this place and, indeed, largely out in the community as a whole, despite the so-called policy of the Labor Party - with no indication to the community at the time of the 1995 election on this issue, the Australian Labor Party came to this place and at least at one stage purported to bind all of its members to a view that supported active euthanasia.

Mr Moore: It is just that they took a pledge that they would support the policy.

MR HUMPHRIES: Indeed, they took a pledge to do so, but I think in those circumstances, where a party does decide to bind members to a point of view of that kind - and I am deeply thankful that my party is not one such party - it is incumbent on members of that party to tell the community, not just in the fine print of a document that you pay $20 to obtain but in bold letters in some part of a published statement before an election, that that is the bound position of members of the party. It is deeply concerning to me that members should ever be in a position of being faced with an obligation to support legislation of this kind which is not of their belief or view. It is a tribute to Mr Connolly's and Mr Wood's courage that they are prepared to push the issue to the point where they are able today to vote according to their consciences, but I am not prepared to let the Labor Party generally off the hook on this issue. I think it is most important that, before the 1998 election, if they have intentions of supporting legislation on any moral issue in the succeeding Assembly they tell members of the community what that position will be.

MS HORODNY (12.08): Mr Speaker, I have been listening to the debate in the community on voluntary euthanasia for some time now. I have had delegations of people from the Voluntary Euthanasia Society, the pro-life groups, the AIDS council, the bishop and archbishop of this region, the Doctors Reform Society, the AMA and other health professionals, and individuals who themselves are in the terminal stages of an illness. I have also had individual phone calls and letters from hundreds of people who feel very strongly one way or the other on this issue. I have visited the hospice and spoken to many health care workers about palliative care. I have struggled with the moral dilemma of when life begins and ends and when, if ever, it is right to allow someone to end their own life.

Speakers against this Bill have said that abuse could happen, but this does not address the fact that euthanasia is performed now and that there are no safeguards in place at present; there are no records kept on euthanasia, on the process itself, because, beyond the withdrawal of treatment, voluntary active euthanasia, legally speaking, does not currently exist, although we know it does. Speakers against this Bill have also expounded the values of human life but have not talked about the lack of quality of life when an individual is on their deathbed, is in unbearable pain, and is ready to die because, for them, palliative care has not been helpful. The issue of voluntary euthanasia is one politicians have traditionally steered clear of because it divides the community and it is politically unsavoury. This Bill is about giving people the right to choose to end their life if they are in the terminal stage of a terminal illness, and only if they are in that stage.

I was initially suspicious of this Bill and its ramifications. I questioned every detail, and I thought that perhaps palliative care was the only solution we needed for this problem of suffering and distress. I also thought about how to avoid making this difficult decision altogether. At times I thought, "We have managed to date without this legal channel for voluntary deaths, so why not let things go on as they are? Then I too can avoid the ethical issue of the sanctity of life versus people's right to choose, like so many other politicians before me". The problem is that I knew that what the doctors and other

health care workers were saying was absolutely true. It was all happening already with no regulations, no monitoring and no ethical guidelines. Because voluntary active euthanasia is currently illegal, there is much power in the hands of doctors and their judgment of a person's physical and mental state, with no accountability.

From people who are in the final stages of their lives I have heard, "How can someone tell me I have to keep going when I do not want to, when I have no will to live and when I have no quality of life, when I am in constant pain and distress and when, most importantly, I have prepared myself in the best possible way for death?". I know that people do not lightly make this decision to die, and I believe that we must respect people's right to determine when they die, if they are at this terminal stage in their life-threatening illness and if they are of sound mind. Over and over I have heard people say, "I do not want someone telling me I cannot die". At the present time, if someone chooses to die, with a loved one to see them out and to hold their hand, then that companion risks prosecution for assisting death or, rather, not preventing death. We force on these dying people the added pain of dying alone without a hand to hold as they pass away, without peace and dignity. We already put doctors in a huge ethical dilemma by technically classing as criminal the acts they perform now out of compassion, yet we do not charge them. This seems to be another area where the law has not kept up with the reality in our society.

This issue is a conscience decision in the Greens party. I have searched my conscience, and my deep sense of compassion for all living things tells me that it is wrong to force people tormented by excruciating pain and suffering great indignity to continue to linger. My visit to the hospice affirmed my great respect for the workers there, who do all they can for their patients, but palliative care cannot relieve pain in every circumstance. It is out of concern for these people who are not relieved that I will be supporting Michael Moore's Bill, with the seven amendments that Kerrie and I between us have developed to ensure that abuse does not occur. These amendments provide for stronger accountability of the medical profession and the coroner, including a review of the legislation after two coroner's reports have gone to the Attorney-General, that is, after the law, were it to pass, had been enacted for two years. Another amendment extends the so-called cooling-off period after signing the request from 24 hours to 72 hours.

One of the amendments that have been put forward is that the Bill not be enacted for at least six months, and there are two main reasons for this. One is to allow the medical profession the time to learn about the legal implications and, most importantly, the other is to allow the public to understand what is and is not covered by this Bill, whom it does and does not apply to, and what the accountability mechanisms really mean. If this Bill were to pass, I would like to see a strong public awareness campaign spelling out very clearly the legal and medical implications of voluntary euthanasia. I believe that, with the seven amendments Kerrie and I are proposing, the Bill would put in place very strong procedures to maximise accountability and to ensure that the Bill is used for the purpose for which it is intended, that is, compassionately to allow those patients who request it and for whom palliative care has not provided adequate relief the ability to die in peace and not to have their pain and misery drag on.

I end by recalling the very real recent situation of a man who was a tormented and violent and fearful person all his adult life. After a dreadful accident that left him a quadriplegic but mentally intact, he found for the first time in 30 years a peace within himself and a closeness to his God. A restless man in life, now his body was forever still. He asked for forgiveness from his family and friends for all his violence and anger and displayed no fear of death, when he had always had a desperate fear of life. Although he may have lived on for some months, he asked his doctor to turn off his machine so that he could die, now that he had made peace with himself, his family, his friends and his God. He was ready and indeed happy to die. The lesson for me here is that we all come to make our peace in our own time.

MR HIRD (12.18): Mr Speaker, my Christian beliefs and my understanding that life is precious tell me that I will not and could not in all conscience support Mr Moore's legislation. That will not be a surprise to Mr Moore or anyone who knows me. However, I do respect the right of Mr Moore and other members to bring forward their arguments and to let this place, which is the proper place, make a determination on the proposal. The community I represent would know my belief that the family unit is based on life itself, the circle of life from birth to death. To remove that under legislative arrangements would be abhorrent.

The sanctity of life is preserved not only by each member of our community but also by the medical profession - the nurses, the doctors. They take an oath to preserve life, to hold it sacred, to make life comfortable. As has been said by a number of my colleagues, there is a way of looking after those people who are suffering. There is a way to protect them. Indeed, we as a community have a responsibility to care for those who are most vulnerable - the disabled, the sick and the frail, those who are least able to resist suggestions to hold onto life. As has been said, if the Dutch experience is any indication, there is growing anecdotal evidence that active euthanasia has moved from an option to a preference to an obligation to those who feel that they are a burden within our community.

The Labor Party, and I respect them as political opponents, has a policy with which I agree; that is, they are opposed to capital punishment. Yet, for some strange reason, they now want to terminate life. It is interesting to hear the way they have built that philosophy. As I said to Mr Berry some time ago, had it been 20 years down the track and Mr Berry had asked me, I would have given serious consideration to supporting this Bill. The circle of life is a marvel to me and to all of us. We see a baby come into the world and we see our loved ones leave it. In a tree outside my window there are three baby currawongs nesting with their parents. It is a beautiful experience. The thin end of the wedge is euthanasia. Do we then have involuntary euthanasia? Do we go further and further? Do we terminate life because someone is a nuisance? Do we go back to capital punishment, like heathens? Or have we learnt the lesson that He who gave us life, the Maker, takes our life?

I dare say that members on this side of the chamber received not just one or two but hundreds of letters from their own electorates. I would like to read extracts from two letters I have received. The first letter reads:

> Legislation to legally kill a person such as this could lead to the patient feeling such a burden that they are emotionally manipulated into requesting euthanasia, even though they would, in their hearts, prefer to live out a full and whole life.

The second letter reads:

> The best way to help people who are suffering is to give them necessary pain relief, tend to their needs with caring and an attitude that treats them with the dignity their life deserves. Be a presence to them with love and acceptance of who they are and what they are going through. The problem is generally not unbearable physical pain but the emotional and spiritual pain of feeling unwanted, unloved and a burden. We are getting too busy and self-centred to be willing to spend time with people and most of the time this is all people need - a presence and a listening ear.

I think that sums it up: The caring, the understanding and the ability to be there for the assistance of those we love are what love is about. With these few words, Mr Speaker, I strongly urge members to turn their backs on this legislation, and I commend Mr Wood and Mr Connolly for their support. It would be a retrograde step to support the introduction of this legislation in the ACT. I will be opposing it.

Sitting suspended from 12.24 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Psychiatric Patients - Proposed Royal Commission

MS FOLLETT: Mr Speaker, I have a question for Mrs Carnell in her capacity as Minister for Health and Community Care and it relates again to the police shooting of Mr Warren I'Anson last Friday. Mr Speaker, I could refer to the front page of today's *Canberra Times* and suggest that there are significant differences of opinion as to the facts of this matter; but, as I said yesterday, our approach from this side of the house will be to look for solutions. I ask Mrs Carnell whether she would join with the call from the Australian Psychiatric Disability Coalition and join with the Labor Party in calling for a Federal royal commission into police shootings or killings of psychiatric patients.

MRS CARNELL: Thank you very much for the question. I think we should be leaving this whole issue to the coroner who is investigating it at this stage. I agree that there have been some differences of opinion, but those differences of opinion tend to be with a very select few people, not with the I'Anson family. In fact, just this morning I spoke to Brian, and he certainly does not have any difference of opinion at all with the position that I and others, like Libby Steeper, have taken in this situation. What we want to do is make sure that in future people with psychiatric disabilities in the ACT - schizophrenics and others - have a better deal both within the ACT and Australia-wide. I think in this case we should wait for the coroner to determine what happened.

MS FOLLETT: I have a supplementary question, Mr Speaker. Mrs Carnell, if a royal commission is set up, will you undertake to make all of the relevant records of last Friday's events available to that royal commission?

MRS CARNELL: Of course. As I understand it, royal commissions have a capacity to require whatever records are available. I would hope that, after the coroner's report has come down, everybody will have an opportunity to look at that report. I am sure all of us want to know exactly what happened that night. I understand that all of the stakeholders have given or are giving evidence to the coroner, or are giving written reports to the coroner about the events.

ACTEW - Pricing Tribunal

MR OSBORNE: Mr Speaker, my question is to the Minister for Urban Services, Mr De Domenico. Minister, during the recent ACTEW corporatisation debate the one main reason, I suppose, why I supported your Government was that you promised in this Assembly to go along with my motion and set up an independent pricing tribunal to monitor the actions of ACTEW in relation to this area. Could you tell this Assembly on what day this tribunal was set up, who is on it, and was it consulted in relation to the decision yesterday to combine the water and electricity accounts into one superbill, for want of a better word?

MR DE DOMENICO: I thank Mr Osborne for his question. Yes, it is true that part of the legislation, Mr Osborne, did include the establishment of a tribunal. That being the case, the tribunal will be established because it would be illegal for us not to do so. Mr Osborne would also be aware that any future movement in prices cannot happen until 1 July next year anyway. I give this Assembly an assurance, and Mr Osborne an assurance, that before anything like that does happen a tribunal will be established.

MR OSBORNE: Given your answer, Mr De Domenico, does that mean that, every time I get an assurance from your Government, I am not to place any timeframe on it and am to just allow it to happen over the next 2½ years?

MR DE DOMENICO: Mr Osborne, you do not establish a tribunal overnight. I know that we have had a couple of months - - -

Mr Osborne: Six months has - - -

MR DE DOMENICO: Just wait. You asked the question and I will answer it for you. We are going to find out whether it is best to establish a tribunal or to use a tribunal outside the ACT in order to get a more impartial tribunal as well. We have to look at all those options, Mr Osborne. I can assure you that, once the Government is in a position to suggest what the best possible option and the best possible outcome is, we will come to you, Mr Osborne, and seek your advice and cooperation. I am sure that you will be satisfied.

Mr Berry: What about everybody else?

MR DE DOMENICO: If you want to be consulted we will consult even with you.

Olympic Sports Bid

MR KAINE: Mr Speaker, I direct a question to the Minister for Sport, Mr Stefaniak. Minister, I presume that you will have seen a media release put out last week by Ms Follett, Leader of the Opposition and ACT Labor leader, entitled, "Government inaction threatens soccer Olympics for the ACT". Minister, can you advise the Assembly whether the claims in this release are accurate? Secondly, if they are not, have they done any damage to the Olympic sports bid by both Canberra and at least one other city in Australia?

MR STEFANIAK: Mr Speaker, I thank Mr Kaine for the question. I can advise that they are not accurate, Mr Kaine. Long before I finish answering this question, Ms McRae, who is actually Labor's spokesperson for sport, will probably want to get down under her seat and hide. I think her leader has caused the ACT Labor Party untold embarrassment and reduced their credibility on sporting issues to zero as a result of this. As Mr Kaine said, she issued a media release in which she claimed the ACT had lost a $5m-plus contract with the Japanese Olympic team to train, acclimatise and live in Canberra before and during the Olympics. She went on to say that the University of Newcastle had won the bid, with the generous support of the Newcastle City Council. This, she said, demonstrated the Government's total lack of commitment to bringing the Olympic soccer quarterfinals to Canberra. This, it seems, was not an allegation by the Leader of the Opposition; it was a statement of fact.

The Government decided to check out her so-called facts because, in the past, her secret source on sports stories has not been terribly accurate. Indeed, he has been way off the mark on a number of things. The Bruce Stadium story involving $15m, which I think the Chief Minister has commented on before, is a case in point. Let me read for Mr Kaine a media release issued by the Hunter Dash for 2000 Committee the next day which was headed, interestingly enough, "Hunter Region Refutes Opposition Claims on Japanese Olympic Deal". It says:

> Hunter Dash for 2000, the Olympic taskforce set up by Newcastle and the Hunter Region to partner Sydney for the 2000 Olympic Games, has not made any contractual arrangement with the Japanese Olympic Committee as announced by the ACT Opposition.
>
> Hunter Dash for 2000 has held discussions with the Japanese Olympic Committee and enjoys a relationship of mutual friendship, trust and understanding, with the potential of working together in the future.
>
> Hunter Dash for 2000 and the Japanese Olympic Committee have not made any formal agreement concerning the Sydney 2000 Olympic Games.

> Hunter Dash for 2000 Chairman, Mr John Peschar, said while his group wished Canberra well, he was disappointed that the Hunter's relationship with the Japanese Olympic Committee may have been damaged unintentionally.
>
> "This kind of statement could damage not only the Hunter's reputation with the Japanese Olympic Committee, but also Canberra's reputation. It does not display fairmindedness nor the Olympic ideals of sportsmanship and friendship.
>
> "Hunter Dash for 2000 will be taking steps to repair the damage with the Japanese Embassy and the Japanese Olympic Committee in the hope that the relationship can continue with mutual respect and understanding".

In other words, Ms Follett, not only were you wrong, but it appears you have also done some real damage to efforts by both the Hunter region and Canberra to secure Olympic commitments from other countries by the year 2000. I table that media release, Mr Speaker.

What is even more breathtaking is some arrogance displayed by Ms Follett's office when apparently confronted with this information last week. I am advised that, when told by a member of the Hunter Olympic Committee that there was no agreement, a member of her staff disputed this, saying, "I know what is going on in Newcastle more than you do". How incredible! Obviously, Ms Follett, you know more about the Olympic soccer series than not only the Hunter region and the ACT Government but also the Sydney Organising Committee for the Olympic Games. SOCOG confirmed last week that there is no decision on whether the Olympic soccer quarterfinals will be played anywhere other than Sydney.

On 31 October ACT Government officials met with SOCOG to discuss Canberra's bid to host soccer in the year 2000, and I can confirm that Bruce Stadium will be one of the venues inspected to assess its suitability against IOC technical requirements. Any investment in the stadium that may be required to meet IOC specifications would have to be weighed up against the benefits which would accrue from hosting preliminary rounds, not quarterfinals, of the Olympic soccer competition. In other words, Ms Follett, the ACT Government is doing all it can to promote our Olympic chances. I might also point out to Ms Follett and members opposite that, in terms of facilities, if they had a broader understanding of the issue, Canberra can provide international standard training facilities in many more of the 30 or so Olympic sports than Newcastle can provide them. We can do most of them; Newcastle can do about eight or nine. It really is inconceivable that the entire Japanese Olympic team could base themselves in one centre.

The sort of rubbish coming out of the Leader of the Opposition's office in relation to this does nothing to help. It certainly puts Ms McRae in a very embarrassing position in the ACT sporting community, because it is her credibility that has suffered. This is not the first time that Ms Follett's source has proven to be less than reliable, as I indicated before

in relation to the $15m. Mr Speaker, the Government has a pretty good idea of who that source is. Our message to him would be, "Stick to politics and not to sport". I think that same message should go to Ms Follett because this stunt really has left Ms Follett and the Opposition looking like complete and utter dills. At least Ms McRae had the good sense on this issue not to get anywhere near it and perhaps avoided some of the stuff-up.

Discrimination Proceedings

MR CONNOLLY: My question is to Mr Stefaniak as Minister for Family Services. I refer the Minister to the decision of the ACT Discrimination Commissioner last year in the Dalla Costa matter. On 18 October in this place I asked you whether your Government endorsed the position of the former Government, which was to accept the finding of the commissioner that practices of ACT agencies amounted to discrimination against persons with disabilities. You said, and I quote from *Hansard*, at page 1801:

> This Government certainly accepted the decision, as your Government did ...

Why, then, did you instruct the ACT Government Solicitor, or why did you allow your department to instruct the ACT Government Solicitor, to open the contentions of the ACT Government filed in the Administrative Appeals Tribunal with the statement that there was no unlawful discrimination? Are you aware of the distress that this is causing the family and the broader disabilities community, as witnessed by letters that every member will have got from Parent Advocacy, and the damage that going back on an agreed position is doing to the perception of disability services and your Government's commitment to services?

MR STEFANIAK: I made a number of inquiries after Mr Connolly asked me that question. I understand that there has been a legal position for some time. The matter apparently was also dealt with on 25 October 1995 by the AAT, which ruled on a preliminary question about whether it must determine for itself whether the ACT unlawfully discriminated against an individual in the provision of speech therapy services. The tribunal effectively so ruled. I wrote to you in relation to that on 31 October, and I tender that letter, Mr Speaker.

Mr Speaker, the Department of Education and Training, which has taken over this area since, I believe, July, has also developed a policy in relation to the child health and development service which takes into account, I am advised, the 1994 ruling. It is a draft policy which is now in force and I understand that it is to be reviewed in the second half of next year, as is normal with similar types of policy. I have the access to services guidelines and the policy here, which I will also table for your benefit, Mr Connolly.

Ms Follett: Why have you gone back on your word? That is the question.

MR STEFANIAK: I do not believe, for a start, that I have. Mr Connolly, as my letter on 31 October indicated to you, the Government Solicitor has been instructed by the department to take a certain position after 25 October. I had discussions on Friday, 27 October, with my officers.

Mr Connolly: You have instructed them to reopen discrimination.

MR STEFANIAK: Mr Connolly, as I think I might have indicated to you on 18 October, there are a number of things in relation to damages claims that are relevant. It is very difficult to completely compartmentalise certain issues. A number of broad issues need to be looked at. When it was explained to me, as I then wrote to you, I have no real problem in relation to that. I suggest you read the policy and guidelines, which are more than your Government did in relation to this.

MR CONNOLLY: By way of asking a supplementary question, Mr Speaker: I still have no answer as to why the Government has gone back on its stated position, other than a legal technical argument that the AAT requires to re-examine the question itself. If that is your position - that the AAT requires the Government to formally reopen the question of discrimination - will you keep faith with your statement in this place, the statement of the former Government, and the perception that this Territory is fair dinkum on discrimination issues, by now instructing your department, having filed the contention, to not pursue the matter in the tribunal, as it is quite open for you to do so? I accept as a matter of law that the tribunal has said, "We want to look at discrimination". You must accept as a matter of law that you can instruct the ACT Government Solicitor not to pursue the point. Will you so instruct the Government Solicitor and thus attempt to keep faith with the community?

MR STEFANIAK: Mr Connolly, we have kept faith with the community by developing a policy, which I have tendered - a policy that is - - -

Mr Connolly: And which you are contesting in the tribunal.

MR STEFANIAK: Not necessarily. There is a legal matter now before the AAT which I understand will be dealt with in December. That has been explained to me now at some length. I can see no reason, Mr Connolly, to do as you say.

Mr Connolly: What an outrageous position! You have gone back on your word.

MR STEFANIAK: Rubbish!

Housing Trust Services

MS TUCKER: Mr Speaker, my question is to Mr Stefaniak as Minister for Housing. Can the Government assure the Assembly that no further aspects of the Housing Trust operations will be privatised or contracted out? If there are plans to contract out or to privatise services, can the Minister provide a full list of these services and any jobs that will be lost?

MR STEFANIAK: A number of avenues currently being investigated in relation to more efficient use of services do, I understand, involve some potential for contracting out. I am happy to provide you with more information in relation to that, Ms Tucker, including any ramifications it may have on jobs. The staff, as always, have been kept informed in relation to any possible changes by the officials in the department.

MS TUCKER: I have a supplementary question. I will be waiting with interest to see that information. Can the Minister assure the Assembly that he will notify this place of any changes relating to contracting out or privatisation of Housing Trust services or assets prior to implementation?

MR STEFANIAK: I do not have a problem with that, Ms Tucker.

Consumer Scams

MR HIRD: Mr Speaker, I direct a question to the Minister for Consumer Affairs. Minister, I have received from certain Belconnen residents a query on what is called a scam. A number of these scams have appeared recently in Canberra, ranging from pyramid selling schemes and chain letters to plain rip-offs. Minister, what scams are you aware of and what is our Government doing about them?

MR HUMPHRIES: I thank Mr Hird for that question. He rightly draws attention to this issue. There are a number of scams floating around at the moment which I think we should all be concerned about. Two weeks ago I referred to a scam whereby people are encouraged to send a cheque to a post office box in Queensland for information on getting rich quick. If they do so, what they get back in return is a kit telling them to put an ad in the paper asking people to write in to them to get rich quick as well.

Mr Berry: It was not the taxi drivers. They lost $8m because of your muck-up on the taxi plates.

MR HUMPHRIES: Mr Speaker, I think this is a matter of some concern to the whole community. We certainly recognise a get-rich-quick scheme when we see it. I am not sure that Mr VITAB over there does when - - -

Mrs Carnell: It was money for jam, Wayne.

MR HUMPHRIES: "Money for jam". You could put that in an ad. The most recent scam we have seen also refers to a remote island, Mr Speaker, this time in the Indian Ocean - an island in the Seychelles. You have to ring this phone number in this ad that says, "Dial the world's most profitable phone number now". When you dial this number you get a very longwinded message, in an American accent, telling you about the benefits of the scheme. At the end of a 10- or 15-minute message the basic information is that if you get other people to call that number you will receive a commission. Apparently, in the Seychelles there is some sort of scheme operating whereby people who call long distance to the Seychelles contribute to the account number that they are calling. It is like a 0055 number without being publicly identified as such in advance. People can do $30 or $40 easily on this scheme, with no guarantee of getting any return on that.

Mr Hird has made reference to chain letters. A number of chain letters are going around the Territory at the moment which I think are of some concern. One of them is directed towards children. It asks them to send Little Golden Books on to other people and they will in turn receive a number of Little Golden Books, according to the promise in the letter, which, I might say, looks as though it has been written by a child, but I very much doubt that it has. Of course, children are particularly vulnerable to this kind of thing. They do not understand that what they are being promised here almost certainly will not come true. Similarly, there is a scheme which advertises itself as a "Pretty Panties Exchange". Apparently, if you send six copies of the letter, you will receive 36 pairs of pretty panties in the mail. Mr Speaker, the short answer to all these matters - it is the advice that I would give Mr Hird to give to his constituents - is that you should always avoid a scheme which promises you lots of money for very little effort. If it looks like it is too good to be true, it almost certainly is.

One other one I might mention just in passing is a thing sent to people in the mail. It is from the European Appliance Factory Outlet, which promises people two of a particular European appliance, including dishwashers, food processors and microwave ovens, for just $39.95. Everyone knows you cannot buy any one of those products for $39.95, much less two; so this is almost certainly another of those schemes. The short answer is: Do not believe these sorts of things that promise a lot for very little, particularly if the contact is simply a post office box somewhere else with no contact name or number. Unfortunately, there are some people who get stung with these things. People should avoid them like the plague.

WorkCover Investigation

MR BERRY: My question is to Mr De Domenico in his capacity as Minister for Industrial Relations. It is in relation, Minister, to your decision to involve a member of your staff in an investigation under the Occupational Health and Safety Act. Minister, why did you take this action, which might subject your staff member to sanction under section 67 of the Act? I draw your attention to section 67 of the Act. It relates to obstruction of inspectors. On the basis of the minutes that you tabled yesterday, prima facie, there is a case to answer, in my view. Section 67 says:

A person shall not, without reasonable excuse -

(a) obstruct or hinder an inspector in the exercise of his or her powers under this Act or the regulations; or

(b) contravene a requirement made by an inspector under section 62.

The penalty for a natural person is 100 penalty units and for a body corporate 500 penalty units. They are significant penalties. It raises the question why you would instruct your staff to put themselves in this position when you could have taken another decision. Why did you not - - -

Mrs Carnell: I do not think he instructed his staff to hinder.

MR BERRY: What did you say, Mrs Carnell?

MR SPEAKER: Order!

MR BERRY: No; I would withdraw that too. I would be quiet about that.

MR SPEAKER: Mrs Carnell did not say anything. Ask your question, Mr Berry.

MR BERRY: Why did you not advise the complainant of their rights under sections 82 and 83 of the Act?

MR DE DOMENICO: I thank Mr Berry for his question. Mr Berry, in a very florid way - - -

Mr Berry: In case you have not read it, I will give it to you.

MR SPEAKER: Order! Mr De Domenico is answering the question.

MR DE DOMENICO: Mr Berry, there was no direction to interfere with any investigation whatsoever.

Mr Berry: Involve themselves.

MR DE DOMENICO: Well, you said "interfere".

Mr Berry: "Involve themselves", I said.

MR DE DOMENICO: I am saying there was no direction whatsoever, Mr Berry, to interfere. When three different organisations come - - -

Mr Berry: "I sent my staff member up there", you said, publicly.

MR SPEAKER: Order!

MR DE DOMENICO: When three organisations, Mr Speaker, come to my office and allege that officers under my control are doing something illegal, it would be remiss of me as a Minister, or any other Minister, not to make sure that those officers' actions were protected. I then asked a member of my staff to advise me whether the officers concerned were acting legally. He did so and we had no further involvement; nor will we have any further involvement.

MR BERRY: Minister, did you take any advice from your departmental officers? If so, would you tell us whom you took advice from, and are you prepared to table that advice?

MR DE DOMENICO: Mr Speaker, as I said, I asked Mr Clarke to go down and tell me whether those officers were acting legally. Mr Clarke did so, and we took no further action, and we will continue to take no further action.

Papaya Fruit Fly

MS HORODNY: My question is to the Minister for Health, Mrs Carnell. The Minister was given notice of this question. Minister, concern has been raised that, following the outbreak of the papaya fruit fly in Queensland, fruit from that State has been sold in the ACT which has organophosphate pesticide residue on the skins exceeding national health standards. Is the Minister aware of the tests which have been conducted on produce originating from Queensland and sold in the ACT which have been shown to have more than three to four times the accepted level of organophosphate pesticide residue? If so, what action does the Minister propose to take?

MRS CARNELL: Thank you for the question and thank you for giving me some notice of that. It appears that there was a complaint received from a woman at Rivett, I understand, at about noon on 30 October 1995. It was alleged that bananas on sale at a particular Woolworths supermarket were covered with a white residue. A sample was purchased on 2 November by Public Health and submitted to ACTGAL for analysis. There was evidence that the white coating had originated from a grower of bananas obviously, in Queensland - not on the Kingston foreshore, so we are all right.

On 16 November the results came back and it turned out that the skin of the bananas had 0.334 parts per million of chlorpyrifos, which is an organophosphate widely used in agriculture. The flesh had no chlorpyrifos. The weight of the skin was 243 grams, and the weight of the flesh was 317 grams. The calculation of chlorpyrifos for the whole banana was 0.15 parts per million. The food standard for chlorpyrifos residue is 0.1 parts per million. The level calculated is slightly above standard but substantially below levels that would be regarded as dangerous. Apparently, as you said, and from radio reports today, Queensland has employed an extra 200 people spraying fruit because of the fruit fly problem that they are currently experiencing there. What is being suggested - a press release is going out - is that fruit be washed and the skins handled with care. In this case, unless you eat the skin, you are pretty safe; but I think it is important that people know that they have to wash fruit that comes from Queensland at this stage.

MS HORODNY: I have a supplementary question. Will the Minister table the results of the analysis by the Department of Health, and will consumers be informed?

MRS CARNELL: I have read into *Hansard* the results, I think quite accurately, but I am happy to table anything else. There is no more information than what I have read out. As I said, a press release is currently being prepared to go out to the people of Canberra to inform them that they should handle fruit from Queensland with care. They certainly should wash it and not eat the skin.

Workers Compensation

MS McRAE: My question is to Mr De Domenico in his capacity as Minister for Industrial Relations. Minister, is it true that you have rejected the key recommendation of the Select Committee on Workers Compensation - that is, to set up a statutory body to take over the activities of WorkCover, including the Occupational Health and Safety Inspectorate; to take responsibility for rehabilitation of workplace injured ACTGS employees; to be the agency representing the ACT Government Service on the Safety, Rehabilitation and Compensation Commission; and to have appropriate and effective enforcement powers?

MR DE DOMENICO: I thank Ms McRae for her question. At this stage the Government has not responded officially to the recommendations of that committee. The Government will be introducing legislation tomorrow to take into account some of the committee's recommendations. Encapsulated in those amendments to certain pieces of legislation you will find most of the recommendations of that committee.

MS McRAE: I have a supplementary question, Mr Speaker. At what point will the decision be made about the statutory body?

MR DE DOMENICO: The Government is yet to determine in which way the recommendation to establish a statutory body ought to be taken into account. It may mean that we can take that recommendation into account by amending existing legislation, which would enable us to establish similar things to what the committee wanted without establishing another quango. This would mean less money being spent for the people of the ACT, and in a more cost-effective way.

Leasehold Administration

MR MOORE: Mr Speaker, my question is to the Chief Minister. Chief Minister, yesterday in the house you made a statement that the Stein report had found no evidence of corruption with regard to the Secretary of the Department of the Environment, Land and Planning, and I accept that. However, the same report makes absolutely scathing comments about the control and administration of the department where he had had responsibility for land and planning for quite a number of years. What action will you be taking in response to those indictments, considering that you announced the reappointment of two other senior officers in what were relatively minor positions compared to his in that department?

MRS CARNELL: What we have done - I made it very clear yesterday - is make sure that the people who were named in the Stein inquiry or, alternatively, whose positions were spoken about are no longer involved in those particular areas. As Mr Townsend is no longer head of DELP, as DELP no longer exists, there was no need to move him yesterday. Quite clearly, if DELP had still existed, and he was still the head of DELP, we would have moved him sideways as well.

MR MOORE: I have a supplementary question, Mr Speaker. Your proposals for new senior executives involve contracts, and those contracts measure performance. Will you be offering one such contract to Mr Townsend?

MRS CARNELL: When this Assembly passes the necessary legislation, Mr Moore, after comments that you have made recently on such things, all senior executive positions will be declared vacant. Positions will be advertised, or, in some circumstances, Ministers may choose to directly appoint people who they believe, after going through the appropriate merit selection process, should be appointed. Merit selection will be the basis of all appointments.

Business Promotion

MR WOOD: Mr Speaker, my question is to Mr De Domenico in his capacity as Minister for Business, Employment and Tourism, and for self-promotion. I refer to the publication "How Canberra is Winning Business", this document which was circulated to members last week. It contains the statement that the feature is sponsored by the Business and Regional Development Bureau. The feature, as we can see, is printed on high-gloss paper - there is no recycling here - and contains photographs of three of the four Ministers. Somehow Mr Stefaniak missed out.

Mr Stefaniak: I am too ugly, Bill, I suppose; that is all.

MR WOOD: Well, you said it. I ask the Minister: How much public money was wasted on producing this self-promotion of some of the current Liberal Ministers?

MR DE DOMENICO: I thank Mr Wood for his question. I will come back with an exact dollars and cents answer. I do not know off the top of my head how much money it cost. In your question you ask, "How much money was wasted?". I can assure you, Mr Wood, that the Government does not believe that promoting Canberra is a waste of money, as you would know. This Government, prior to the last election, committed $5m to promote Canberra as a tourist, sporting and cultural destination, as well as a place to do business. Quite obviously, the Government has commenced work, because, as you would also be aware, since March 1995, since this Government took office, 6,700 new jobs have been created in the ACT. In comparison, when your Government was in office, Mr Wood, in the year before that there were only 700. There were 700 jobs under Labor; there were 6,700 jobs under the Liberal Party Government. Mr Wood, we will continue to wisely spend community money to promote Canberra.

MR WOOD: Mr Speaker, the document promotes Ministers. I ask a supplementary question. Bearing in mind statements from the now Government when they were in opposition about the then Government paying for the promotion of Ministers, will you continue with this style of government that you formerly condemned?

MR DE DOMENICO: I thank Mr Wood for his question. I agree with Mr Wood. The Government will continue with the style of government that continues to promote the benefits and the beauty of Canberra as a place to do business. We will promote the benefits of Canberra so that sporting teams from Malaysia, hopefully from South Africa, hopefully from Italy, and hopefully from anywhere else around the world will come here. We are one of the best kept secrets in the world. The previous Government sat on its hands for five years and did nothing. As the Chief Minister's recent trip to Japan proves, if you spend money judiciously, if you do the right thing, and if you know what you are talking about when it comes to doing business, business does come to Canberra. When business comes to Canberra, employment grows. When employment grows, everybody else is happy.

Parking Inspectors

MR WHITECROSS: Mr Speaker, my question is to Mr De Domenico in his capacity as Minister for Urban Services and Minister for Business, Employment and Tourism, so he has to juggle two hats. I refer to the November-December 1995 edition of "Target Tourism", and I would like to quote briefly from it, Mr Speaker. In it Mr Marshall refers to "unfortunate obstacles" and says:

> There are few more annoying and downright damaging to Canberra's image than overzealous parking inspectors.
>
> I believe we must try to convince our parking inspectors to show a little discretion when dealing with our interstate guests because one thoughtless act or word has the potential to destroy years of image building.

I table a copy of the article, for the information of members.

MR SPEAKER: You will need leave.

Leave granted.

MR WHITECROSS: Thank you. As the Minister for Urban Services, Mr De Domenico, and hence being responsible for parking operations, do you agree with the comments of the chief executive officer of Canberra Tourism? Did the chief executive officer make his views known to you before they were published?

MR DE DOMENICO: The answer to the second question is no. We tend to allow our senior executives to speak their own minds in the areas of expertise that they have. In answer to the first question, yes, I am often rung up or written to by people from interstate who happened to go to the gallery, for example, and found themselves with parking tickets. What I inform them usually is that the ACT parking inspectors are not allowed to go onto Commonwealth land unless they are invited to so do by the department that is in charge of that particular area of land.

Mr Berry: What has that to do with it?

MR DE DOMENICO: If you would listen you might learn a thing or two from time to time. People from the gallery will sometimes invite the ACT traffic inspectors to come onto their land and give traffic tickets. When they are so invited they go there and do what they are invited to do. In terms of our own traffic inspectors in the areas that we control, we always say to them, "Listen, for heaven's sake, use commonsense". Quite obviously, if there is any car, whether registered in the ACT or interstate, that is obstructing traffic or is in a position where the community is in danger or property is in danger, they will continue to issue tickets if they believe that they should do so.

MR WHITECROSS: I ask a supplementary question, Mr Speaker. Mr De Domenico, you talk about commonsense. Will you ensure that the chief executive officer correctly understands how parking inspectors go about the business of administering the parking laws? Will you ensure that the parking inspectors do not discriminate between interstate and ACT motorists when administering the motor traffic laws?

MR DE DOMENICO: Mr Whitecross, I am sure that no traffic inspector will discriminate against anybody. A traffic inspector is there to do a job. That job is to provide safety and also to make sure that people who park their cars do so according to the law. They will continue to do that. I would hope, and I would insist, that they do use commonsense when they do that. Most of them do, might I say. If the chief executive of Canberra Tourism wishes to be briefed on the role of traffic inspectors, I will give him that briefing.

Mrs Carnell: I ask that all further questions be placed on the notice paper.

Griffith Preschool

MR STEFANIAK: Mr Speaker, both Mr Whitecross and Ms McRae asked me some questions yesterday in relation to a shed that apparently is used as a cubbyhouse, from what I am told. I have a number of points to make which the department found out. Yesterday Ms McRae and Mr Whitecross asked questions concerning the removal of a decrepit cubbyhouse-cum-storage shed, it seems, from the grounds of the Stokes Street preschool. I provide the following information in relation to this issue which has been obtained by my department.

Firstly, I was not informed by the department of the removal of the storage shed from the Stokes Street preschool, because this was a routine matter of minor maintenance. I have been advised that the parent association of the preschool has been in contact with the department to indicate that they are very appreciative of the prompt action taken to act on the occupational health and safety report and to ensure that the safety of students was protected. I want now to put the issue in perspective.

The quote for the removal of the cubbyhouse was $165, with an additional sum of $200 to remove the asbestos sheeting roof, using appropriate asbestos removal methods. It would appear that there may have been some irregularity in the way the demolition was carried out and the materials were removed from the site.

Mr Connolly: A bungle.

MR STEFANIAK: We will see. I am advised that my department did act quickly and in accordance with the regulations to ensure that the hazard was removed from the preschool as quickly as possible. My department has also contacted Construction and Maintenance Management Services to request that they check the site to ensure that all hazardous materials have been removed. The property management section of the department received an occupational health and safety hazard report from the occupational health and safety representative at Forrest Primary School on 27 October regarding the need to undertake repairs to a cubbyhouse located in the grounds of the Stokes Street preschool. In particular, the structure had a steeply sloping roof indicative of major problems in the substructure.

I am advised that, in accordance with the response given to the OH and S hazard reports, action was taken quickly to arrange an inspection by a maintenance contractor to rectify the situation. Advice from the contractor was that such were the problems with the subfloor area and the roof structure that repair was not practicable and that it posed a risk if used by staff and children due to subsidence in the floor. No record exists of when the shed was built or who built it. It is estimated to be at least 30 years old. In addition, repairs were also considered impractical because of problems with the cladding material, which appeared to be AC sheeting, which I understand contains asbestos, and which would mean that repairing the structure would be an unsafe process. The department's arrangements with all contractors are that they undertake work in accordance with appropriate ordinances and legislation.

Approval for the removal of the shed was sought from and given by the Early Childhood Services Unit on 30 October and the work commenced on 31 October. Initially, the department did not know of the possible existence of AC sheeting. The hazard report made mention only of the poor condition of the structure. On inspection, the contractor advised of the possibility of AC sheeting. He quoted on the basis that it was AC sheeting which required appropriate removal procedures. The department agreed to proceed on that basis.

The contractor selected had previous experience with the department in the removal of hazardous material. I am advised that he removed mercury at the Telopea Park school, which was a substantial and complex project. On that basis, the department accepted his quote on the understanding that proper removal procedures would be followed.

The removal of the structure, Mr Speaker, was apparently complicated by the fact that the job took more time than originally estimated, and was further complicated when scavenging took place overnight on 1 November 1995. This meant that small pieces of sheeting material, in particular, were spread around the site. The contractor was subsequently called back by the department to carry out a further check of the site, as a few small pieces of sheeting had been discovered in the grounds. A further check was made by the department, only to discover that some small pieces of sheeting still remained. The contractor was again contacted and the site cleared.

There was no requirement by the department to contact the Department of Urban Services, as the job was small and outside. Furthermore, an experienced contractor was employed. The sheeting material from the structure was removed from the site, I am advised, on 1 November, and the remaining timber and other material was removed on 2 November. The contractor was also asked to revisit the site to ensure that all material had been removed. My department continues to liaise with the contractor to ensure that proper removal procedures were followed for clearance of the site. My department is also liaising with the Pre-School Association regarding alternative ways of providing additional storage for the unit.

Chief Minister's Department - Chief Executive

MRS CARNELL: I table the answer to the question asked by Mr Osborne yesterday with regard to the salary package for the position of Chief Executive in the Chief Minister's Department, and seek leave to have it incorporated in *Hansard*.

Leave granted.

Answer incorporated at Appendix 1.

Industrial Relations Consultant

MR DE DOMENICO: Mr Speaker, I would like to table the answer to a question that Mr Connolly asked me yesterday about the cost of the Houlihan consultancy and the terms of reference. I seek leave to have the answer incorporated in *Hansard*.

Leave granted.

Answer incorporated at Appendix 2.

AUDITOR-GENERAL - REPORT NO. 7 OF 1995
"ACTEW Benchmarked"

MR SPEAKER: I present, for the information of members, Auditor-General's Report No. 7 of 1995, "ACTEW Benchmarked".

Motion (by **Mr Humphries**), by leave, agreed to:

> That the Assembly authorises the publication of the Auditor-General's Report No. 7 of 1995.

ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE
Alteration to Reporting Date

MR BERRY (3.16): Mr Speaker, I seek leave to move a motion to alter the reporting date of the inquiry by the Standing Committee on Administration and Procedure on the Legislative Assembly (Broadcasting of Proceedings) Bill 1995.

Leave granted.

MR BERRY: I move:

> That the resolution of the Assembly of 31 May 1995, concerning the reference of the Legislative Assembly (Broadcasting of Proceedings) Bill 1995 to the Standing Committee on Administration and Procedure, be amended by omitting "by the last sitting day in November" and substituting "by the first sitting day in 1996".

This is merely to extend the reporting date on that matter before the Administration and Procedure Committee.

Question resolved in the affirmative.

PRIVATE MEMBERS BUSINESS - PRECEDENCE
Suspension of Standing Orders

Motion (by **Mr Humphries**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing orders be suspended as would prevent order of the day No. 1, private members business, relating to the Medical Treatment (Amendment) Bill 1995, being called on forthwith.

MEDICAL TREATMENT (AMENDMENT) BILL 1995

Debate resumed.

MS McRAE (3.17): Mr Speaker, I rise to support this Bill warmly and wholeheartedly. I do not accept the thin end of the wedge arguments, I do not accept the slippery slide arguments and, most of all, I do not accept all the scaremongering that has been going on about deliberate killing. This is a Bill that tackles the issue of people in a terminal phase of a terminal illness - purely and simply that - and people who wish to end their lives with some dignity. To that extent, I am willing to accept this Bill. I put forward today four points as to why I am willing to do this.

My first point is that this Bill represents a profound act of recognition of our common humanity, the diversity of our experiences and the rights of each individual to be exactly who they are. It gives people the profound knowledge that they can retain dignity and control in the final phases of an illness which has probably already ravaged them and reduced them to a level of incapacity that they neither foresaw nor wanted for themselves or anyone else. It says to them, "We will give you the dignity that you have been able to retain for your entire life. We will give you the opportunity to choose, to control and to say, 'I am who I am. At this point I have done enough and I do not want to suffer any longer' ". In saying that, it is accepting that there are a myriad of different deaths and a myriad of different personalities, people, reactions and lives. I think it is a Bill that at its profoundest level accepts that and gives people their common humanity.

At the same time it is a recognition of the mutual trust in which we all live our lives. It gives to carers a compassion and a capacity to express compassion in the most profound way. For me, there would be nothing worse than knowing that I could alleviate someone's suffering and being held back purely and simply because of the fear of litigation. For me, there would be nothing worse than hearing someone say, "I am reconciled to the fact that I cannot deal with this any longer, so please help me" and only being able to say, "I hear you, but I will not help you". This Bill gives to carers and to terminally ill patients their humanity.

To be put in a position where you have to say to someone, "Please go on screaming, go on crying, go on being in pain, go on suffering; I will not help you because the legislators will not permit me to" is as inhumane as any of the arguments I have heard against this Bill. For both the carer and the cared-for this Bill comes out of a profound concern to alleviate suffering that is unnecessary and undignifying, suffering that anyone with a clear head and a clear choice would not want to go through. We do not know how we will react in that situation, as Ms Follett said this morning, until we are there. We have no right, in my opinion, to deny people in the terminal phases of a terminal illness the right to seek from two doctors, not just one, the termination of their lives.

I come to my second point. In my opinion, this legislation will very rarely be used. Surely, whenever a patient reaches that point, any carer, anyone involved with them, will say, "What is wrong? Can we not help you? What else can we give you? Why are you still suffering?". That would be the immediate and natural reaction to anyone confronted with that situation. In my opinion, there would be very few illnesses and very few circumstances that would reduce people to ask for death. I think we have to

acknowledge the fact that that will happen, but by the mere act of putting this Bill forward we are also saying that when people reach that point it will become a trigger for all concerned to say, “Something very serious is happening here. What has gone wrong? What can we do to help you through?”.

The third point I want to make is that I think it is an honest Bill, and that is why I want to support it. I think it is a Bill that honestly faces the variety of deaths and the variety of circumstances that people face. It does not try to gloss over, to romanticise, to glorify, to in any way move away from the reality that confronts people in life in hospital, in life at home, in life at the end of a terminal illness. It says to people, “Yes, we hear you”. It says to people, “Yes, we know that you understand your own limitations”. It says to people, “We know that there are illnesses for which no amount of self-delusion can lead to comfort and dignity”.

We have only talked about cancer. There is a small number of other diseases that people face with enormous bravery and dignity but that reduce them to a state that they would rather not be in. This Bill honestly confronts that and says that in those circumstances those people have the right to ask for assistance and to put their situation forward, not to one doctor but to two, to trigger all the support that is available. Why would they not be offered every bit of palliative care? At the end of that process the Bill honestly confronts the reality of people's lives and says, “In those circumstances compassion overrides all and compassion demands that we give you the choice to move away from these circumstances”. That is at the end of a terminal illness when an adult who understands exactly what is before them can, with dignity and in a calm and supportive way, ask for assistance which they need to confront the situation that they are in.

Because this Bill is an honest one that deals with dignity, with compassion, with sympathy, with the reality of people's lives, it becomes a challenge for all of us together to ensure that we do everything we can to assist research to enable everyone to face their death with dignity and comfort. This is the fourth and final point that I want to make. In my opinion, this is a life-confirming Bill. It says that overall what we want to offer collectively is dignity and comfort to everyone with whom we come into contact - to our family, to our friends, to our contacts. We do not want to see them suffering. We do not want to see them begging for this sort of support. We do not want to put doctors and nurses in these situations, but the reality is that these things occur. This Bill, in my mind, challenges us, in whatever capacity, to offer money and support to those involved in research not just to manage pain but to manage a myriad of other symptoms which make life intolerable for a few people towards the very end of their life.

It seems to me that our society is overridden with the myth of a superman. The overriding myth that pervades our society is that if we set our goals high enough and we strive hard enough for them we will achieve them. It is that myth that underlies our approach to death. Instead of facing it honestly, instead of accepting the myriad of experiences, the myriad of illnesses, the myriad of reactions to it, we are perpetrating the myth that, with some level of superhuman effort, everyone can endure anything that comes before them. I do not accept that myth. I know that it is what it is, a myth.

For many individuals nothing they can do and nothing that can be done for them will make their suffering tolerable. I do not accept that we can walk away from that and say, "Too bad. You have to endure". This Bill very carefully circumscribes the circumstances under which assistance is to be offered. I think it is a Bill of honesty and bravery, and I am willing to support it.

MS TUCKER (3.28): Mr Speaker, I am prepared to support this Bill with the amendments proposed by me and Ms Horodny. This has obviously been an extremely difficult decision to make, because it requires that you confront fundamental issues about values and ethics of our society. What was also complicated and difficult was that both sides of this discussion can always produce a list of impressive people to argue their point and both use similar studies but with different interpretations of the results or criticisms of the methodology. The Netherlands situation is certainly used by both sides. However, during my discussions with many people representing the differing views on this complex issue it was clear that the opponents and proponents are both concerned about the welfare of patients and both sides view palliative care as preferable to early death. Both sides also have strong arguments.

The issue of the quality and accessibility of palliative care which our health system provides is very important in this discussion. It is linked to the issues within this Bill by the fact that each year the Minister has to table a report on the state of such services. People may well argue that this is not going to guarantee any improvement or maintenance of such services, especially in the current economic climate, but it does do one thing. Stating the level of services each year will make it more difficult for governments to ignore it and will be a constant reminder that euthanasia and accessible high-quality palliative care must be linked. I am not prepared to accept the argument that voluntary euthanasia will necessarily cause a decline in palliative care. The reason I do not is fundamental to the decision I have made on this issue; that is, I believe that we as a society are able to make reasonable ethical or moral decisions.

Central to the discussion around this issue for some groups is the slippery slope argument; that is, if for compassionate reasons we legalise assisting the voluntary ending of life in the terminal stages of a terminal illness, we shall end up taking the life of people without their consent, on the basis of quality-of-life decisions which are totally out of control. Mr Humphries was concerned also that state of mind would be the determining factor and not state of body. This legislation clearly defines state of body. It is the terminal phase of a terminal illness. I do not accept the premise that as a community we cannot or will not make moral distinctions. I cannot accept that to legalise the right of a patient in the terminal stage of a terminal illness to voluntarily end their life and their suffering if palliative care is no longer effective will lead to the terrible consequences foreshadowed by the opponents. I see great suffering in the current situation. I also see a situation where those with money and influence are able to exercise choice already. I believe that we do have the ability to make these moral distinctions.

Even if I were not of this view, there is an argument to still support this Bill, because, although you may be fearful of abuse of power by doctors or concerned about the lack of power of patients, we have already crossed the ethical or moral line in practice. There are end-of-life decisions, active and passive, going on in our hospitals now.

There are end-of-life decisions occurring in the rest of our society as well, when people or their loved ones take, or attempt to take, the thing into their own hands, with sometimes tragic consequences, including the possibility of imprisonment for those who choose to act out of compassion in this way. The moral reason for the distinction between active and passive euthanasia is not clear to me. Both have as their intention relief of suffering and both have as their consequence death. Yet some opponents of the legislation tell me that passive euthanasia is good medical practice but active euthanasia is killing. Euthanasia in this Bill is informed and voluntary, and the regulations and our amendments ensure greater accountability. We have more, not less, chance of preventing abuse than if we pretend that it is not happening at all and refuse to look at it.

While no legislation can entirely prevent abuse, my amendments and those proposed by Ms Horodny seek more accountability under this Bill. They require that much more detailed information be given to the coroner, including all palliative care options offered to the patient. This will be an incentive for medical practitioners to seek advice from palliative care experts, if necessary. The amendments will also make it a requirement for the medical practitioner to whom the request to terminate life is made to be familiar with the medical history of the person making the request, especially the history of illness which has led to the terminal phase. Continuity of care is an essential element in good health care.

The purpose of the amendment regarding medical records is twofold. Accountability is increased by the requirement that a separate written record be kept by the medical practitioner of details regarding the request for euthanasia and that this record must go to the coroner. It is to be signed by the patient as well as the medical practitioner. The coroner will also be required to give more detailed information to the Attorney-General on the operation of the Act. I am also proposing an amendment which will require that, two years from enactment, the Assembly review the impact of the legislation. This is in recognition of the fact that this kind of legislation needs ongoing scrutiny. I hope that this amendment will reassure people who fear that we are opening a floodgate.

I believe that this Bill will allow scrutiny and evaluation greater than now exists in a practice which is already occurring. I would also like to see some evaluation of passive euthanasia as it is occurring now. Proponents and opponents both argue the regard for basic human rights. The question is whether the individual right to choose impacts negatively on the rights of the rest of the community. In my view, within this Bill there is a strong element of accountability and regulation about how this choice is made, and I therefore support the right of the patient in this situation to make their own choice.

Mr Speaker, I have made this decision according to my conscience after reading the literature and listening to people from all sides of the debate. I respect the views of all those who have participated. However, I now feel that it is appropriate to allow people who are suffering in the terminal phase of a terminal illness to choose to end their lives if they cannot be comforted by palliative care. I acknowledge that if this Bill were successful it would require careful ongoing scrutiny.

MR STEFANIAK (Minister for Education and Training) (3.36): Madam Deputy Speaker, I will be voting against the Bill for a number of reasons. A number of members, especially Mr Osborne and Mr Kaine, went into the Netherlands experience at some length. It is very important to learn from the mistakes of other people. It is obvious from the Netherlands experience that euthanasia is something that can be abused. I do not think euthanasia laws in the Netherlands deliver a better society than we have; probably to the contrary. Mr Kaine referred to a number of problems in the Netherlands to demonstrate how something like this can be abused. No matter how you try to put in safeguards - to Mr Moore's credit, he has certainly attempted to put in many safeguards - it still can be abused. Laws are abused daily, as a number of other persons here have said. It is, therefore, still possible to "bump off granny", which is a concern a number of people have expressed in relation to euthanasia.

Medicine improves every day and technology improves every day. That is perhaps something that proponents of this Bill are not really appreciative of. There are standards and morals in our community about care for the sick and care for the frail. Mr Osborne and a number of other speakers have talked about the sanctity of life and the fact that if this Bill is enacted government can invade the sanctity of life. The role of government is to protect life. As Mr Osborne said, the taking of life is justified only when an individual or a collective national unit is acting in self-defence.

I detect a strong element of social experimentation in this legislation. That is something I think the Canberra community is very aware of. Too many times has Canberra been used for social experimentation. What Mr Moore proposes also tends to go against the Hippocratic oath. Doctors are there to save lives, yet this Bill enables them to terminate life. For those reasons, and for my own moral convictions, Madam Deputy Speaker, I cannot support Mr Moore's Bill.

MR CORNWELL (3.39): Members may realise that it is somewhat unusual, but by no means unique, for a Speaker to participate in a debate. However, I feel that on matters of conscience, which indeed this particular debate is about, it is right and proper that all members, including the Speaker, should participate. Let me say, firstly, that I believe that this is really a national issue. I do not believe that it is a matter that should be debated at State or Territory level. In fact, I would prefer the whole matter to be referred to the Federal Parliament and subjected to a referendum at some time in the future so that the views of the entire country on this matter can be taken account of. However, it is before the ACT Legislative Assembly and therefore we must address it.

I believe that there are two elements that need to be considered, the moral and the legal. Much of the moral issue has already been discussed by previous speakers. I do not wish to canvass those views, except to say that, whilst we may speak about freedom of choice in both life and death, it seems to me that there is a considerable difference between taking one's own life and asking somebody else to help one take it. Mercy killing is a fact of war. For example, a soldier may be too badly wounded to be carried and you do not wish him to fall into the hands of the enemy, for very obvious reasons. There is a difference, however, between that type of behaviour in war and a similar type of behaviour, be it mercy killing or euthanasia, in peace. As far as I am concerned, these are unresolved moral issues.

On the legal aspects, I would like to quote from a letter that Mr Moore wrote to a constituent here in the ACT:

> Let me be very clear about what this legislation is about. It is only about the right of a patient who is in the terminal phase of a terminal illness, where that condition has been verified by two independent doctors, where the patient is over 18 years of age, where all other forms of treatment and palliative care options have been made known to the patient, where the patient has been asked if he/she wants to see a religious Minister; providing a cooling off period has occurred, provided no one involved in witnessing this decision has anything to gain from this decision, providing the doctor is satisfied that the request has been made voluntarily and not under duress of any kind - then, and only then can a request be made.

These are good, sensible protections - eight of them, in fact - which it is intended to enshrine in legislation and immediately make vulnerable to amendment.

Mr Moore: Not without coming back here.

MR CORNWELL: What are we going to chop out first? Maybe the 18 years of age requirement. Maybe we will take out the requirement that no-one involved in witnessing this decision shall have anything to gain from it.

Mr Moore: Greg, if that argument is true, murder is open to amendment.

MR CORNWELL: Thank you for the interjection. Maybe we will take out the requirement that the doctor must be satisfied that the request has been made voluntarily and not under duress of any kind. What are we going to take out? Obviously, the answer here in this sensible Assembly is that we are going to take out none of those things. But can we be sure that future legislatures will not, for one reason or another, decide to dispense with some or perhaps all of these good, sensible protections? Madam Deputy Speaker, we are in no position to guarantee that they will not.

Mr Kaine: They might add a few things too. It might not apply only to people who are terminally ill.

MR CORNWELL: My colleague Mr Kaine quite sensibly interjects that they might decide to add a few riders or perhaps change the requirement that a person be terminally ill to one that they must be only ill. We simply do not know and therefore we have a tremendous - - -

Mr Moore: Why do we not amend the Crimes Act and make murder compulsory? Come on, Greg; this is a non-argument.

MR CORNWELL: You will have your chance to answer in due course, Mr Moore. What I am saying is that once it is enshrined in legislation we have no control over what happens a couple of years down the track, in 20 years' time or whatever. Therefore, we have a very serious responsibility in debating this matter today.

I also have a problem with the effect this Bill will have legally if it goes through and is later repealed, as may occur with the legislation in the Northern Territory, where I understand the vote was very evenly balanced. The Northern Territory has a law in relation to euthanasia - and let us not muck around with the term "Medical Treatment (Amendment) Bill" - but let us suppose that at some time in the future the Northern Territory legislature votes to repeal that legislation. What sort of legal tangle would they be in then in relation to the people who assisted in what had now become illegal? I do not know. Would there be some retrospectivity so that such people would not be charged? I simply do not know. Somebody asked me recently where people would stand with their life insurance if you passed this legislation.

I am not being flippant; I am raising what I believe are serious issues that may not be directly germane to the issue before us but are certainly factors that could have profound effects on sections of society. I believe, therefore, that too many moral difficulties are unresolved in this legislation. I believe also that there are too many unanswered legal questions. Accordingly, I too will be opposing this legislation.

MRS CARNELL (Chief Minister) (3.47): I will be extremely brief. Having been on the committee last year when the Medical Treatment Bill was first looked at, I suppose I have been through the mill on this issue. Unlike many others in this Assembly, I have no religious convictions. I have no religious basis upon which to make a decision on this issue. But, having heard all of the evidence that was put before the committee last year, and having been the Assembly's token health professional at that stage, I think my view on this comes down to the issue of intent. I believe strongly that there is a substantial difference - in fact, it is as between chalk and cheese - between the intent to kill and the intent to relieve pain. I believe that the Medical Treatment Bill is the basis of very good legislation. I must admit that I would like to see the words that were initially put forward by the committee reinstated, or similar words inserted, to ensure, once and for all, that a patient has a right to adequate pain relief. I know that an amendment to that part of the Bill watered it down substantially. I think that was a retrograde step.

I believe, as many people do, that patients must be allowed to die with as much dignity as possible; but the next step of involving health professionals in terminating people's lives, with the intent of terminating people's lives, is a step that at this stage I am unable to take. I know that, if I were presented with a prescription to dispense with the intent of terminating somebody's life, I would be unable to fill that prescription. If I were presented with exactly the same prescription to dispense exactly the same dose with the intent to relieve pain, I would have no trouble whatsoever.

Mr Berry: That is hypocrisy.

MRS CARNELL: I do not believe it is hypocrisy. I think this is an issue of conscience. Everybody in this house has searched their soul on this. I believe that at this stage the legislation should be based upon the right to adequate pain relief. We have almost achieved that with the Medical Treatment Bill. I am hopeful that without any change to the intent clause that Bill will be able to achieve the ends that I hope everyone in this

house wants to achieve. That is my position at this stage. I will be voting against the legislation. I hope that an amendment along the lines I have spoken about is brought forward soon to achieve the end that I am sure we all want. I agree with Mr Connolly that a requirement for annual reporting would be a beneficial improvement to the legislation.

In front of me I have a clause-by-clause breakdown of this Bill and the difficulties that arise. The first issue is the definition of "terminal phase of a terminal illness". Mr Lamont, Mr Moore and I spent hours discussing this in our committee. The benefit of the legislation giving people a right to adequate pain relief is that you do not have to define the terminal phase of a terminal illness. I think that was the reason, in the end, that the committee came down with the recommendations that it did. Once you have to define it, it becomes very difficult. I believe it is possible, but at this stage there is no real definition. I would like to take a step back, amend the legislation to make sure that people have a right to adequate pain relief, as determined by the patient themselves, and see whether that achieves the end we all want to achieve.

MR WHITECROSS (3.52): Mr Speaker, I rise to speak in favour of Mr Moore's Bill. I am happy to speak in favour of it. I think it is a Bill which attempts to restore as much dignity as possible to dying people. Death, by its nature, is not a dignified business but we do the best we can with those circumstances. A lot of the debate surrounding this issue goes to some very basic issues about the role of law and how law contributes to our society. A few false doctrines creep into that discussion.

On the one hand, you have the argument which says that the law is in fact no more than a moral code which says what is right and what is wrong and which we all abide by. That is one view of the law. It is a view of the law which is often promoted by people of strong convictions and particularly by churches, but it is a position which denies the complexity of the society we live in and the different values that exist in our society, and it seeks to push everybody into the same moral position. On the other hand, we have heard an equally strange doctrine, which is that this is an issue of such complex moral dimensions that there is no role for legislators in it. Quite frankly, that is a position which I think is completely unsustainable. The legislators are involved. It is the legislators who have proscribed assisting people to die in the terminal phase of a terminal illness, so it is up to the legislators to resolve that problem. It is not open to the legislators just to say, "This has nothing to do with us".

It seems to me that in deciding how we should address this issue we should not take the attitude that says, "I am going to decide whether I in my conscience would want to be involved in the ending of someone's life and whether I in my conscience would want any of my family and friends to be involved in the ending of their life in the way contemplated in the Bill". The issue is: Is there a reason why I should not allow others to exercise their conscience to make that choice for themselves?

My leader - Rosemary Follett - and Roberta McRae have made quite strongly the point that the issue is not what I think now, in a good state of health and without knowing the kind of death I face, about how I might feel if I were dying and about what decision I would make. I may feel confident that I would never avail myself of the provisions of this Bill, but I am not in a position to make that judgment. I have talked to people,

and I know a lot of us have, who have terminal illnesses, some of whom have since died from their illnesses, and I know the strength of feeling of those people about the right of control over the end of their life. In many cases, Mr Speaker, this desire for control may not lead people to request that someone bring their life to an end, but it reflects a view that they alone can judge when the pain is too much and when their time has come and that others should not be taking that decision away from them. This Bill gives people that right.

We have heard a lot spoken about the sanctity of life. Indeed, we should view life as a sacred gift. But there are other things which are sacred as well. Our individuality is a sacred thing. Our right to autonomy is a sacred thing. In the single-minded pursuit for one value we will always tend to trample on other values along the way. In balancing those rights, I believe that someone in the terminal phase of a terminal illness is the person who should be making the final decision about when their life should come to an end, if they want to make that decision for themselves. I see this as being a positive benefit for the individuals involved, but I see other benefits in the legislation as well.

The legislation brings into the open decisions which, it is widely acknowledged, are already made in the hospitals or at home by people who are dying and by people caring for people who are dying. This legislation takes it out of that twilight zone where people cannot talk about it and seek the counsel of friends, relatives, priests or others because to involve other people is to involve them in something which might ultimately be judged to be a criminal act; so, instead, things are done in secret and things are done quietly. I do not think that is acceptable. I think that people who say, "We know that it goes on and we turn a blind eye to it, but we do not want to legislate for it because that will make it sound as though we think it is okay" are falling into the trap of denying the people who are involved proper access to the kind of considered decision-making which such a serious situation should involve.

The legislation also allows us to draw a distinction between choices which we as a parliament think are reasonable and choices which we as a parliament think are unacceptable. Instead of leaving these things in the hands of doctors, we are saying, "Where the person has made the decision, where the person has decided for themselves, that is reasonable. Where the doctor has decided that it would be good for the patient, or where the patient's relatives have decided without the patient's authority that it would be good for the patient, that is not acceptable". The legislation draws those distinctions and in the process gives some clarity to the practice in relation to this matter.

Mr Speaker, another important element of this legislation which has not been particularly touched on but which is very important to me is that people who are dying do attempt to bring their lives to an end and often successfully bring their lives to an end. But, because of our law, they do it without the assistance of qualified medical practitioners and without the benefit of any advice or counselling because, once again, it is in that twilight zone of illegality. People resort to extremely violent and unpleasant ways of killing themselves - such things as electrocution - because they do not have access to the kind of assistance which this Bill would provide for. People take overdoses

which turn out to be insufficient to do the job, and they live with the distressing consequences of having made that decision to die but death not having occurred as they had expected. These people deserve to be allowed dignity and given respect for the decisions they are making in the final period of their life, not turned into outcasts and criminals for wanting to take control of the final period of their life.

Mr Speaker, there are a lot of myths surrounding this legislation. I know that a number of other speakers have addressed some of those myths, but I want to run through some of them again. One of the big myths is that this legislation will lead to rampant pressure from society, from family and from health administrators for patients to exercise the option of voluntary euthanasia in order not to be a burden on others. My experience of the medical profession and of family members attending people who are dying is that invariably they are among the last people who wish to see their loved ones die. It is usually the person who is dying who is much more sober about the reality of death than their family and their friends are. I do not believe that this legislation will abolish the humanity that families and medical practitioners have about human beings and human life. I do not believe that there is any reason to think that the situation in relation to the will of patients to live or the will of their families to have them live will change.

Another myth which has been promoted is that this legislation will see the end of funding for palliative care. For exactly the reasons that I have just indicated, I do not believe that there would be any momentum in favour of reducing funding for palliative care or further research into palliative care. People want to see their loved ones live on for as long as they can. They want to see them live on in comfort where they can. They are not going to want to see an end to palliative care simply because this other option exists for a minority of cases.

Another myth that surrounds this matter is that all pain can be managed and that no-one needs to be in suffering or distress in the final period of their life. That is simply not true, Mr Speaker. I have not yet spoken to somebody involved in that field who says that all pain can be managed. Certainly, much can be managed, but people die in different ways. Some people are assisted by legislation which allows the turning off of life-support machines; others are not. Some are assisted by pain-killing injections, which incidentally cause death; others are not. This legislation assists another group of people. It is wrong for us to say that nobody will suffer in the final period of their life under current medical treatment.

Another thing which has been said to me is that dying is a period of spiritual reconciliation, that it is a moment when people come to terms with their life, their family and their friends, and that this final, spiritual event should not be interfered with by giving people the opportunity to bring their life to an end. Mr Speaker, there is no doubt that a lot of people have an experience of dying which involves some of those things, but I know of people who have gone through that process of reconciling themselves to their families and friends, of reviewing their life, of making their peace with their God, but who have not died just because they went through that process. They may have lingered on for another month or two or three. Why should they linger on in pain for another month or two or three just to satisfy a romantic image we have of the process of dying?

Finally, Mr Speaker, I want to touch on one more myth, which is that people will be terminated against their will if this legislation is passed. It is interesting that in talking about this legislation and the Dutch experience we learn that all involuntary death caused by medical practitioners or others is attributed to voluntary euthanasia legislation, but the involuntary death which occurs in our community at the moment is explained away with a wave of the hand. The fact is that involuntary death occurs in our hospitals now. I do not endorse it, but it happens. It happens without the existence of voluntary euthanasia legislation. What voluntary euthanasia legislation does is empower some individuals to take control over the final period of their life. We should not allow illegal acts under existing law or the new law to divert us from the merits of this law.

Mr Speaker, the ethical decisions which have to be made under this Bill are decisions which have to be made by the individual involved, in consultation with their family, their friends, their medical practitioners, their spiritual advisers, whoever it is they want; but it is a decision that ultimately they will have to make because that is how human beings work. We are ultimately responsible for our own decisions. This legislation gives people responsibility for their own decisions.

MR BERRY (4.07): I rise to support this Bill. Mr Speaker, I have long supported freedom of choice, that is, informed choice. That, of course, means choice for the individual.

Mr Humphries: To join a union too?

MR BERRY: Trust Mr Humphries to try to divert attention. Good old Gary!

Ms Follett: He has been in the gutter all day.

MR BERRY: Yes. That means choice for the individual, Mr Humphries. You are the one who screeches "choice" all the time. It would be a pity if you could not direct yourself to the issue of choice for the individual on this issue. That is what I am about. Of course there have to be safeguards in these matters for those who may not be able to reason or who may not be in a position to freely exercise choice or make judgments. I think this Bill does not transgress those requirements and I am wholeheartedly behind the thrust of it. It has all the safeguards.

Euthanasia has always aroused strong emotions, and many of the churches take a particular view on it. I think the tide has turned. There are those who strongly support the introduction of legislation which would allow people to exercise a choice and exercise their conscience in deciding when their time has come. In my view, that is the important thing that we as legislators have to address.

Mr Kaine talked about some experiences overseas. I think he said that only 40 per cent of the people in some sort of survey in New York supported euthanasia. I think that was an inappropriate measure to use, particularly as the outcomes of those sorts of surveys in the US are often skewed by the voluntary voting system. When I went to the US recently, I took the trouble to go to Oregon, where a majority of people had decided to enact a law to allow euthanasia. It was the first State in the United States to do so. I think that is a sign of changing times.

It was interesting to look at the report from the ACT euthanasia survey of 75 or 76 per cent of the people and see how the age brackets dealt with this issue. In my view, it is very encouraging to see that the 18- to 24-year-olds seem to have a more progressive attitude on this issue than people of my age and above. They are probably better informed on these issues than most of the people of my age and that of many of the other people in this chamber.

Mr Speaker, I think this issue comes down to a couple of basic elements. First, should I as a legislator prevent people from having a choice? I say no. I believe that it should be up to the individual to exercise that choice. If people want to satisfy their relationship with their God and their families and those sorts of things before they make that decision, it is entirely up to them to do so; but, as I said earlier, it is entirely up to them to decide when. It is not for me to exercise my conscience on this issue and impose my will on another individual. I think it is outrageous to suggest that I as a legislator should impose my will on an individual on such an issue. That is largely the system that is in place at this moment.

There was some talk earlier of the slippery slope. I think the slippery slope could be more hazardous in the present circumstances, because day after day we hear reports about medical professionals properly assisting their patients to die at their patients' request. But they are doing it in an environment where there is no regulation, no reporting requirements and no safeguards. All we can do is hope that they exercise their medical ethics in a way that is at the direct request of the patient. I say that we have to do something about what I would describe as a true slippery slope. We are turning a blind eye to it. We all say, "It is happening, so just let it happen". I do not think we as legislators should allow ourselves to do that. The medical professionals ought to be able to exercise their conscience on this. This is not compulsory for anybody. This is about people in the medical profession being given some protection when one of their patients decides that their time is up.

I did not believe my ears a little while ago when Mrs Carnell said that she was happy to provide drugs to relieve pain. One assumes that she would do that even in the knowledge that it was going to bring about the termination of a life. But she is not prepared to prescribe drugs which would terminate life. I just cannot see the difference.

Mr Humphries: There is a difference, Wayne.

MR BERRY: I do not think there is a difference at all if the intention is the same.

Mr Humphries: One is the intention to relieve pain; the other is the intention to kill.

MR BERRY: It is all right if you turn a blind eye to it and pretend it is not the same. That is the sort of thing that we as legislators have to avoid. Legislators have an obligation to reflect community standards. I think community standards have come a long way since the current laws were enacted. Doctors have made admissions and risked prosecution over their assistance to their patients on the issue of euthanasia, but we

should not have a situation where it is accidental or ad hoc, with somebody pretending that nothing is going on behind the scenes. Individuals should be allowed to come to their own decisions, and they should have regulated rights on the provision of information. Those rights are not there.

To those of us in the Labor Party, euthanasia is not a new issue. Mr Humphries, I think quite mischievously, reflected on Labor's performance in recent elections. There has never been any secret about the Labor Party's policy, Mr Humphries. It has always been contained in a document as it is now. If you had not been so busy pushing some of your Liberal Party people around at the polling booths at the last election, you might have noticed the Right to Life presence. Do not give us that nonsense about the Labor Party hiding its position. We have had this as part of our platform since 1991, and it is something that I have been totally committed to.

Mr Humphries: Yes, but you have not said anything about it in public.

MR BERRY: The calls to vote for life in Ginninderra by saying no to abortion on demand and saying no to euthanasia did not mention my name. These people did not support me. It is pretty obvious that it was a public issue, so do not twist and do not just avoid it. It does your standing no good to continue with that sort of nonsense. You know that our position was very clear. We have debated this issue in our policy committees and at our conferences on many occasions. It has never been a secret, and my position has never been secret. In fact, after the last election and the strong campaign that was run by the Right to Life Association, I think if I were to oppose this legislation the people who elected me could rightfully accuse me of treachery. The campaign was pretty clear in relation to the Labor Party's position. I have come to this debate having exercised my conscience on this issue on many occasions and knowing that I have the support of the Labor Party on the issue.

At a time when advances in modern medicine mean that somebody with no hope of a recovery, no chance of a meaningful life, can be kept alive indefinitely, we cannot put off the recognition that people should not have their suffering prolonged unnecessarily. Mr Humphries, you might take note that in our platform about natural death legislation we talk about - - -

Mr Humphries: Is this the $20 document you have to buy to get a look at it?

MR BERRY: I am sure the Liberal Party would have been able to come up with the money. It talks about the need for a hospice, and we have dealt with that. It goes on in detail to discuss the Labor Party's natural death policy. Mr Moore's Bill is a carefully crafted Bill which essentially matches that policy. Mr Moore has made no secret of the fact that it was crafted in a way that could take advantage of the Labor Party's policy. There is no secret about that. Whilst the introduction of it might not have been of our timing, the Bill nevertheless reflects the policy which has been decided by the party.

Much has been said about palliative care. My support for well-resourced palliative care is well known, and palliative care is in a much better state here in the ACT because of the Australian Labor Party's commitment to it.

Mr Humphries: Dear, oh dear!

MR BERRY: Mr Humphries says, "Dear, oh dear!". I know what it was like to fight the Liberal Party on the establishment of a hospice. We would not have one if we had left it to the Liberal Party. We know the attitude of the Liberal Party, but that is not the answer. There comes a time when the need for palliative care ends, a time when people should be allowed to let go. We as legislators should not stop them. That time has to be at the choosing of the individual.

I heard one of my colleagues - I think it was Ms Follett - say that euthanasia was not something she could envisage resorting to. Likewise, it is not something that I have considered in respect of myself. Many of us from time to time think that we are invincible, although after we spend a bit of time here we feel less so. I will fight for as long as it takes to ensure that other people have the right to exercise that choice. It is always a difficult issue for individuals and for their loved ones; but if people want to end their pain and suffering, be it physical or mental distress that cannot be tolerated, we cannot force them to go on unnecessarily. It is on that basis, Mr Speaker, that I think it is time that we had this provision for euthanasia, and that is why I will be supporting the Bill.

MR MOORE (4.22), in reply: Mr Speaker, I seek leave to speak without limitation of time.

Leave granted.

MR MOORE: Mr Speaker, I think of Gladys lying in her hospice bed in great pain, dying with cancer in great indignity. She is a prudish woman who all her life has looked after her own body but now has other people taking care of her most fundamental needs. Doctor 1 comes in and he provides morphine, with the intention to relieve pain. He provides so much morphine that he knows that she is going to die. That is legal. Doctor 2 comes in and she requests of him that he provide enough morphine for her to die because she is in such pain and such indignity. He does. That is illegal. That is our current system.

Some people think that is okay. For me, Mr Speaker, it does not seem okay. The irony of the system is that seven doctors in Victoria admit to being like doctor 2 and the authorities and the Premier, who are invited to prosecute them, refuse to do so. What we have, Mr Speaker, is a form of common law that is decided outside the courts - because nobody will prosecute - without any regulation whatsoever and without any safeguards whatsoever. Yet people here today tell me that this legislation that I have put up will lead to the slippery slope. I think that needs reassessment, Mr Speaker.

Twenty years ago doctors believed that it was entirely inappropriate to tell some people that they were dying, that they had a terminal illness, because at that stage doctors believed that their decisions were always paramount. Mr Speaker, legislation still provides that a doctor's decision is paramount and the decision of a patient is not.

Our community attitudes are changing. I think all members here would recognise that patients have more and more say about how their treatment should be dealt with. Mr Speaker, this Bill is just another step in recognition of patient autonomy as opposed to doctor power. It is a step to prevent us from going down the slippery slope. I shall come back to that.

A recent survey amongst doctors showed that over the past two years almost one in five doctors had assisted a person in the terminal phase of AIDS with voluntary euthanasia or suicide. This, the survey showed, indicated that doctors had complied with only half of the requests that had been made. The lead researcher, Dr Denise Fagan, said that the results of this survey represented the views of the members of the Australian Society of HIV Medicine and added:

> There is no sense in burying our heads in the sand. Doctors feel strong enough about it to write the details in the survey. To some extent it may be for some not quite a cry for help but it's a very positive statement about their beliefs in participating in an activity that could get them into a lot of trouble.

Indeed, Mr Speaker, the penalties in our Crimes Act are severe. This study, conducted on behalf of the Australian Society of HIV Medicine, elicited responses from 233 members, or 56 per cent of members, around the country. Forty-one of those had received requests from HIV patients between August 1993 and August this year. Most doctors, 51 per cent, who were involved in euthanasia were general practitioners, 17 per cent were mixed practitioners in general practice and hospital work, and the remainder were doctors in clinics, mixed specialities and private specialists. The study found that one in four patients were assisted with euthanasia - 23 per cent in the terminal phase of AIDS and 10 per cent suffering with AIDS.

The study highlights the following facts. Firstly, doctors are already carrying out voluntary euthanasia and will continue to do so with no guidelines and no protection for themselves or their patients. There is no cooling-off period, no time for the patient to consider the situation, no protection against coercion, no protection against vested interests and no requirement for the patient to be advised of his or her options of treatment. Indeed, there is no pressure to even ensure that the request was voluntary. What we have done instead, Mr Speaker, is put all our faith in the doctors. No doubt, in the vast majority of those cases, the doctors go through those processes; but there are no guarantees. Secondly, doctors are breaking the law on a daily basis and daring the authorities to prosecute them. They run the risk of being prosecuted for murder for their actions and must falsify death certificates to protect themselves.

Thirdly, as I mentioned earlier, even though seven Victorian doctors dared the Premier and the police to prosecute them for publicly admitting to having assisted patients with voluntary euthanasia, the Premier and the police have not acted. Why is it that the Premier, the police and the Director of Public Prosecutions have not acted? It is probably because they believe that even though it is illegal it ought not to be, but they are

too bound by party politics or too afraid of political risks to come forward and act responsibly on this issue. Is it that they know the general community attitudes are such that they would risk public condemnation for taking action against these doctors? Indeed, they know that, Mr Speaker.

It is clear that legislators are many miles behind community attitudes on this subject. In saying that, of course I exempt the members of this parliament who have supported this legislation today. It is irresponsible for legislators not to regulate this practice and bring in laws that ensure that all rights of the patient are protected. Mr Connolly and Mr Wood seem to see no hypocrisy at all in demanding for themselves a conscience vote after signing a pledge that they would uphold their party platform at the last election, knowing that this was part of the policy. Yet a conscience vote is the very thing that this Assembly is asking you to give to all members of the community. Mr Whitecross put that argument most succinctly. I am talking about the right to make up their own mind and choose according to their own conscience.

Having the choice is a fundamental right of democracy, and I will come back to that. As I have said before, this legislation will not in any way deny choice or threaten any human being. The lack of legislation such as this and the denial of choice, however, will not only impose the moral judgment of a few on the many but also leave an uncontrolled situation unregulated, with no consideration of protection for anyone. How can we deny those people who because they are terrified of their fate face the choice of violent suicide many months before they lose their faculties and who are locked in a hospital system that will not allow them to die at the time of their choice? These are mainly young people suffering from HIV and AIDS, whose strong constitutions, coupled with medical technology, ensure that their death is protracted in a way that terrifies them and surely demands our compassionate response.

Euthanasia is not a new issue, but it is one that will not go away. As medical technology advances, we can expect to live longer, healthier lives. We can also expect that our death will be made more difficult and prolonged as well. That, coupled with a growing demand for patient autonomy and control over treatment, will ensure that this issue has to be confronted. The issue that we are talking about is allowing a conscience vote for some members of our community, the most vulnerable in our community.

Mr Speaker, I had expected that today I would hear some new, compelling arguments that might make me doubt my position, but there has been very little that is new. Today the arguments have been presented sensibly and with very little emotional charge. That is the way such debates should be conducted. However, that is not always the case. I have had to deal with my son, at the age of 10, asking me, "Why is it, Dad, that the kids at school are saying you are a murderer?". That is not an easy thing to deal with. There are some in the community who believe that the way to deal with this sort of argument, this sort of debate, is with scare tactics. They believe that the way to win this sort of debate is to put up false evidence. I am not suggesting that any of my colleagues in the Assembly have done that, but that certainly has been the case in the wider public forum.

The first argument dealt with today was the notion of the slippery slope leading to abuse of the most vulnerable. Someone gave as an example of the most vulnerable Aborigines in the Northern Territory. Part of the reason that the indigenous people in the Northern Territory felt fear was the scare campaigns of the sort that led my son to ask his question. We should note that the final vote in the Northern Territory, the vote that actually carried the legislation, was from an Aborigine. Ironically, it was the one that none of the commentators had counted. Because of the scare tactics, they simply lumped everybody together and said, "Aborigines will oppose this". They missed the fact that Aborigines, like anybody else, have a range of views within their communities. In support of the argument that the slippery slope would lead to abuse of the most vulnerable, it was also said that people are at their most vulnerable when they are dying and that therefore we should oppose this legislation. Not at all. Because people are dying, because they are vulnerable, we should take more care to listen to their wishes. We should take more care not to inflict our views about social control and morality on other people.

Another argument put referred to the Remmelink report. Much was made of the number of people who die of involuntary euthanasia in the Netherlands. I think that is a very sad indictment of what happens in the Netherlands. The information was taken largely before changes were made. The survey was conducted in 1992 and changes have been made since then. Nevertheless, it was still an indictment of what happens there but a greater indictment of what happens here. Mr Speaker, we know that there are many cases of involuntary euthanasia in the Australian Capital Territory and in Australia. We have no way of recording them. We have no way of knowing just what they are, so when people point to the number of people who have died from involuntary euthanasia in the Netherlands there is no comparison. No surveys were done in the Netherlands before prosecutions for the practice of voluntary euthanasia ceased, so there is no way to compare statistics within the Netherlands, but there is also no way to compare that country with similar societies. That is what makes quoting statistics basically useless. We do not have that kind of information. A series of surveys in Australia have attempted to elicit some form of information. We know from three separate surveys that about 30 per cent of doctors have admitted that they have practised active euthanasia, but we do not know the number of patients. Mr Speaker, the difficulty with drawing conclusions from the Remmelink report is that we cannot make comparisons.

That leads me to a series of reports on overseas experiences, particularly reports from Canada, New York State, the Netherlands and the House of Lords. Why would we make our decisions based on such very different societies? It is appropriate, of course, for us to read those reports, as I have done, to draw conclusions from them and to assess what they were trying to achieve. But those societies are very different from ours. That leads me to a point that you made, Mr Speaker. Perhaps we should ensure that legislation like this is dealt with by the Federal Government rather than us. Yet most people who look at improving population health would say, "No; decisions should be made at the spot closest to the individuals, particularly such decisions as these". I would argue, Mr Speaker, that just the opposite is true. The closer the decisions are made to the people, the more effective those decisions are likely to be. A couple of members took the sanctity of life principle, as dealt with in the House of Lords report, as an absolute principle. I wonder how many members of the House of Lords at the time the task force was sent to the Falklands said, "No. The basic principle is the sanctity of life. Therefore, we cannot be involved in war". I find the level of hypocrisy in that argument quite high.

Mr Connolly, I think very sensibly, set out for us the two conflicting principles - on the one hand, sanctity of life and, on the other hand, autonomy. The issue of autonomy has also been dealt with in some very strange ways. None of us ever seek complete autonomy, because we recognise that we live in a society; but we draw a line somewhere. Most of us draw the line at action that would hurt somebody else. That is where the line is normally drawn. Mr Connolly and I have discussed that on a number of occasions. In the legislation that I have put up, the autonomy of people in no way interferes with somebody else's life. It is not like giving somebody the freedom, for example, to drive on whatever side of the road they like, to shoot somebody or to break somebody's arm. As one famous American jurist put it, "I can wave my arm around as much as I like, and have the freedom to do so, until my fist connects with somebody's face, and that is where the freedom stops". I think that is a very clear and concise description of autonomy. On the other side of the autonomy argument is the sanctity of life argument. The word "sanctity" is the same as the word "holy". We talk about the holiness of life. The two words are religious in their origin. The social control we are talking about is indeed religious, even though members may try to distance themselves from that, as Mr Osborne did particularly effectively.

The next argument we heard was that it would corrupt and brutalise doctors if they administered voluntary euthanasia. Doctors are administering involuntary euthanasia right now. Surely that is a much more brutalising practice. Doctors can make the decision without asking. They usually make the decision in consultation with close members of the family. That is the way it is normally done at the moment. An advanced-thinking doctor may sometimes do it in consultation with the person themselves. But it does happen now. We are not talking about introducing some whole new concept. We are talking about regulating something that is going on now and drawing it back from the slippery slope. We also debated the notion of decision-making. The decision-making at the moment is not about individuals deciding. It is about doctors and politicians setting the rules or preventing people from making their own decisions. One has to wonder about what is tolerable and dignified about that.

I dealt with the issue of fear and anxiety in the Northern Territory, but I also think it is important to recognise the genuine fear and the genuine anxiety - and I think Ms Follett spoke to this very well - people have about even voluntary euthanasia. The real issues here are issues about communication; they are not issues about the fundamental principle. The propaganda machine that tries to stop this sort of legislation generates that fear and that anxiety through its attempts at social control. If anybody were to have fear and anxiety, they would have it now under the current system rather than under the system that is put forward in my legislation.

It was also argued that voluntary euthanasia would be at the expense of palliative care. Nothing could be further from the truth. Just the opposite is surely going to be the case. How much harder will people try to ensure that somebody is not in pain, that somebody is taken care of and that the appropriate palliative care is in place if they believe that that person might otherwise make this final choice.

The next argument that needs to be dealt with is the argument that the moral good of the whole society ought not to allow for a few. Of course, that is inconsistent with the view put by the World Health Organisation in its Ottawa Charter, which I am fond of quoting. It is a case of empowering individuals to make their own choices. Part of a moral fibre of society is surely about allowing people to make their own choices and not dictating our own moral view over the moral view of others.

Another argument put was that it will become a callous act, a quick fix. I do not believe that anybody would accept that. Mr Osborne chuckles, so I had better take a bit more time with this one. If there is going to be a callous act, if there is going to be a quick fix and we are going to be worried about the financial circumstances, then surely the notion that doctors are making that decision themselves, rather than the patients, would indicate that that is the action we are going to get. When the patients themselves are making the choice, there is no quick fix to it; there is no callousness associated with it.

Mr Osborne and others questioned the validity of the opinion polls conducted by the Voluntary Euthanasia Society and offered some alternative questions. I have been accused on many occasions of backing opinion polls that do not ask the right question or supposedly ask a loaded question. If ever there was a loaded question, it was the one put by Mr Osborne, who leaves now, I understand, to go and do an interview. The opinion poll question was a valid question because it put very clearly the intent of the Bill. But I should add that, even if the result had been completely around the other way and said that 25 per cent of people were in favour of active voluntary euthanasia, I would still believe in this and I would still go ahead.

Like Mr Humphries, I do not allow the polling to dictate to me at all, and I think I should make that clear. I have taken on a number of issues in respect of which I believed that the polling would show that I was in a minority. I still respect people's right to act rather than be dictated to by polling, but I think it is fair to say that the poll was valid. Morgan gallup polls have been asking a series of questions since the 1960s, and we have seen an increase in support for voluntary active euthanasia right through that time.

There was argument put, I think by Mr Kaine, that the Bill does not allow for mistakes in diagnosis. No, it does not, but it allows the choice to go with the patient. While we know that doctors make mistakes in diagnosis, in this case the choice is made by the patient. That is where the choice belongs. A mistake could be made in determining whether or not a person was in a terminal phase of a terminal illness. That needs to be verified by a second doctor. Yes, a mistake could be made, but I would argue that this does not make the situation worse. It makes the situation better than the one we currently have, in which a single doctor, perhaps without the agreement of the patient, terminates the patient’s life, usually with an overdose of a pain-killer.

There was also an argument put about the maturity of Labor in having a conscience vote. I think I dealt with that reasonably well earlier. Another argument was that this legislation will mean a subtle shift of balance in the health system. Yes, I think that is correct. I think it will mean a subtle shift of balance in the health system if this legislation

is carried. It will be a shift of power to the patient, but it will be a shift of balance in the health system that is rapidly going through our society and something that we will not be able to change. I mentioned earlier that it was only 20 years ago that doctors believed that they ought not to tell people that they had a terminal illness.

Mr Berry said that I had framed the legislation according to Labor Party policy. That is quite correct. I have never tried to hide that. That was the rational way to go about trying to ensure the numbers. In fact, I believed I had the numbers because members had taken a pledge to support this policy, along with others. Mr Berry also said that the legislation was not of the Labor Party's timing. I can understand that, Mr Berry, but do not worry. Since it looks like this legislation will not get up today, we will have another opportunity to get the timing right. This legislation will be brought back again to this Assembly, or the next one or the one after, and attitudes will change and this legislation will eventually get up.

Mr Hird raised the issue of the birds and the bees and the circles of life and the currawongs. I have no answer to that argument. I do not think I am going to be able to persuade Mr Hird on that level, although I will think about it. I am sure that there is something about the birds and the bees that will enable us to deal with that kind of argument. We also had a comparison with traffic laws and were asked what would happen if these were broken. The real comparison is a situation with no traffic laws whatsoever. That is the sort of situation we have with euthanasia. Only by introducing regulations, even if people break them and even if we do not get them perfect, will we improve the situation. There can be no guarantee that involuntary euthanasia will not occur. We know that it is occurring. That is one thing that I think members, in drawing their black-and-white conclusions, have missed in this debate, which is why I have emphasised it again and again. Involuntary active euthanasia is occurring right now, with no guidelines whatsoever.

A very interesting myth that carried right through the arguments of people who are opposing this legislation was the myth that all pain can be alleviated. Mr Speaker, that simply is not the case. Mrs Carnell will remember the Select Committee on Euthanasia going from place to place and talking to witness after witness. The people who dealt with patients dying from cancer or AIDS consistently said that about 15 per cent of patients - somebody quoted this figure earlier - were not able to have their pain relieved. But I point out that about only 5 per cent of patients who ask for voluntary euthanasia do so on the grounds of pain. The vast majority of people do so on the grounds of indignity. That also says something about the way we deal with palliative care.

Mr Speaker, I would like to deal with the question of the intention in delivering pain-killers. I started my speech by drawing attention to the difference between the intention to relieve pain and the intention to help a patient die and why I see very little difference. Mr Speaker, the current version of the Medical Treatment Act, in Part IV, subsection 23(1), under the heading "Adequate pain relief", states:

> Notwithstanding the provisions of any other law of the Territory, a patient under the care of a health professional has a right to receive relief from pain and suffering to the maximum extent -

and an amendment was added -

> that is reasonable in the circumstances.

When we talked about "maximum extent", the power was in the hands of the patients. When the amendment added the words "that is reasonable in the circumstances", it then could be tested in courts against what was reasonable. Mr Speaker, it is time that we reviewed that piece of the legislation in the light of the sort of debate we have had today, and certainly in the light of the argument put by Mrs Carnell, because it seems to me that, if the intention is to relieve pain, by and large there is an acceptance of that. It is an entirely different thing from what I am trying to achieve now, but I think it would at least put a greater focus on patient autonomy under these circumstances.

In concluding, Mr Speaker, I would like to offer my thanks to members of my staff. One of my staff who opposes my view on this issue has had to take a large number of calls that have been less than friendly, to say the least, and has done so in a most professional manner. I would like to thank a range of supporters. I would particularly like to thank parliamentary counsel Gale Jamieson and Jeanine Willson, who have been working on this legislation now for quite some years. We normally do not name the parliamentary counsel, Mr Speaker, but when I originally drafted the legislation there was no other legislation like this anywhere in the world for us to look at. The work that they have put in has been extensive. I do not think anybody made negative comments about the construction of the Bill. I think it is a great credit to those parliamentary counsel. I also thank my parliamentary colleagues for supporting me, not only colleagues in this Assembly but members of other assemblies and parliaments around Australia who have sent me messages. Perhaps I should thank Mr Osborne, who is trying to interject, for putting up such a weak case; but, seriously, I am quite happy to thank members who have opposed this legislation for the way in which the debate has been conducted.

Question put:

> That this Bill be agreed to in principle.

The Assembly voted -

AYES, 7	*NOES, 10*
Mr Berry	Mrs Carnell
Ms Follett	Mr Connolly
Ms Horodny	Mr Cornwell
Ms McRae	Mr De Domenico
Mr Moore	Mr Hird
Ms Tucker	Mr Humphries
Mr Whitecross	Mr Kaine
	Mr Osborne
	Mr Stefaniak
	Mr Wood

Question so resolved in the negative.

ADJOURNMENT

Motion (by **Mr Humphries**) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 4.57 pm